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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK
3 -----x

4 UNITED STATES OF AMERICA,

5 v.

19 Cr. 285 (GBD)

6 LAURENCE F. DOUD III,

7 Defendant.

8 Trial
9 -----x

10 New York, N.Y.
11 January 24, 2022
12 9:45 a.m.

13 Before:

14 HON. GEORGE B. DANIELS,

15 District Judge
16 -and a Jury-

17 APPEARANCES

18 DAMIAN WILLIAMS

19 United States Attorney for the
20 Southern District of New York

21 BY: NICOLAS T. ROOS
22 ALEXANDRA ROTHMAN
23 THOMAS S. BURNETT
24 Assistant United States Attorneys

25 ROBERT C. GOTTLIEB

DERRELLE M. JANNEY

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Attorneys for Defendant

Also Present: Sunny Drescher
Jacqueline Hauck
Paralegal Specialists
Special Agent George Burdzy, DEA
Investigator Kathleen Whitmore, DEA

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1 (Trial resumed; jury not present)

2 THE COURT: I think we have 10 or 11 jurors so we're
3 still waiting for some jurors. I'd like to talk a little bit
4 about scheduling and talk a little bit about what we're
5 supposed to expect from these experts.

6 What's the government's schedule at this point?

7 MR. ROOS: So we have our special agent that's still
8 on for cross. And then we're going to call Bill Pietruszewski.
9 And I think the current plan is to have him testify and then to
10 have our expert testify.

11 THE COURT: Okay. So is that two more witnesses?

12 MR. ROOS: And then there a few more people that are
13 on the government's witness list. To give your Honor the full
14 universe, Michael Paulsen, Larry Houck -- who else? Deborah
15 Komoroski and Sunny Drescher, who is our paralegal as a clean
16 up. So we're not sure about the order of anything after the
17 expert. But, none of those people are long.

18 THE COURT: Does the defense, is there some issue with
19 regard to the experts or the exhibits that we were discussing
20 last week or you resolved that?

21 MR. JANEY: No, your Honor, we have a full submission
22 as we promised that we would provide, you'll have it today.

23 THE COURT: Okay. I don't have it yet.

24 MR. JANEY: No, your Honor. It's almost done.

25 THE COURT: And you are objecting to the witness or to

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1 the exhibits?

2 MR. JANNEY: We are not objecting to the witness. At
3 this point we're objecting to the exhibits.

4 THE COURT: And both exhibits or just one of the
5 exhibits? I believe there is an income exhibit and then --

6 MR. JANNEY: Thank you, your Honor.

7 THE COURT: Suspicious --

8 MR. JANNEY: What we're trying to do, consistent with
9 what your Honor asked us to do, is to identify exhibit by
10 exhibit where we have issues and that's what we're endeavoring
11 to do to be as complete as possible. And again, your Honor
12 will have that full submission today.

13 THE COURT: Again, are you objecting to both of those
14 exhibits or just one of those exhibits?

15 MR. JANNEY: I understand when your Honor says both,
16 what we've endeavored to do is identify in the 81 pages or the
17 81 slides wherever we have objections to be as complete as
18 possible.

19 THE COURT: When I say both, my understanding is that
20 one witness has the income exhibit, and another witness has the
21 suspicious order activity.

22 MR. ROOS: Just one.

23 THE COURT: That's just one witness?

24 MR. JANNEY: With respect to all those. My
25 understanding, your Honor, is all of those 81 slides are going

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1 to be used in support of the testimony of the single government
2 expert witness.

3 THE COURT: Just so I get a feel as I wait for your
4 submission, what is your objection with regard to the income?

5 MR. JANEY: Well, the income is discussed in a couple
6 of different respects, but one, as we were discussing last
7 week, on Friday, the income gives an inference, we believe
8 strongly, that the income from the pharmacies is a red flag.

9 THE COURT: That's not what the exhibit says.

10 MR. JANEY: Well, again, to answer your question --

11 THE COURT: It doesn't qualify as a red flag under the
12 suspicious order procedures.

13 MR. JANEY: I agree with that, your Honor, and I
14 believe that's part of the issue. And our submission will more
15 fully elaborate.

16 THE COURT: Who will testify that the income was a red
17 flag?

18 MR. JANEY: I don't know who the government intends --

19 THE COURT: You think the witness is going to try to
20 testify that Mr. Doud's income was a red flag?

21 MR. JANEY: Well, presumably, and even if those words
22 don't literally come out of his mouth, your Honor, the way in
23 which the slide is designed, it gives rise to that impression.

24 THE COURT: No. It gives rise to the impression that
25 during the period of time that the government contends that the

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1 company was not following its suspicious order procedure, that
2 Mr. Doud's income was significantly benefiting during that
3 time.

4 MR. JANNEY: I'm sorry, your Honor. I wasn't
5 immediately understanding what income you were referring to.

6 THE COURT: I am trying --

7 MR. JANNEY: I thought you were referring to -- when
8 you said "income," I thought you meant the sales dollars in
9 connection with the pharmacies. That's what I was referring
10 to.

11 THE COURT: That's why I was given two separate sets
12 of exhibits.

13 MR. JANNEY: Yes.

14 THE COURT: Do you have an issue with regard to
15 Mr. Doud's personal income, exhibit and testimony?

16 MR. JANNEY: The way in which it's described, yes, your
17 Honor. And that's also part --

18 THE COURT: In what way is it described?

19 MR. JANNEY: Well, the slide gives an impression, I
20 think in a way that's misleading, that Mr. Doud's income, his
21 compensation was driven by controlled substances sales.

22 THE COURT: What does that have to do with the
23 exhibit? The exhibit doesn't say that.

24 MR. JANNEY: Well --

25 THE COURT: The exhibit just indicates what his income

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1 was over the years.

2 MR. JANNEY: Well, the exhibit in and of itself, and
3 listen, with respect to that particular slide, your Honor, we
4 can certainly reserve the objection upon hearing the testimony
5 of the witness.

6 THE COURT: I want to try to see if I can resolve it
7 long before that.

8 MR. JANNEY: I certainly believe, as we'll lay out in
9 our submission, we anticipate that the witness is going to say
10 and the government on its offer of proof with respect to this
11 witness has indicated that he is talking about controlled
12 substances sales during the time frame. And your Honor --

13 THE COURT: I'm sorry?

14 MR. BURNETT: I can explain, your Honor. That's just
15 not correct. I think I may be able to speed this to get to
16 this more efficiently.

17 The one slide just charts out what Mr. Doud's bonuses
18 were over the course of time. The expert will say that bonus
19 was based on total sales, and the expert will testify that a
20 portion of it is directly attributable to controlled substances
21 sales, but not by any means the full thing. And he'll talk
22 about what the connection is between the controlled substance
23 sales and the non-controlled substance sales,.

24 THE COURT: What connection is he going to make?

25 MR. BURNETT: He is going to explain when you have a

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1 whole line distributor like RDC was, that RDC didn't just sell
2 controlled substances to some pharmacies and non-controlled
3 substances to other pharmacies. They would sell them usually
4 both types of goods to one pharmacy at a time. So if RDC were
5 to hold up an opioid order or to hold up a controlled substance
6 order, RDC would risk not only losing those opioid sales, but
7 risk that customer going to a competitor for those sales, other
8 sales, and maybe losing the customer entirely. That is
9 something that Chris Masseth also mentioned during his direct
10 testimony.

11 THE COURT: I'll get their submission, but I am trying
12 to figure out whether or not this debate is over the testimony
13 or over the exhibit and I'm not right now --

14 MR. JANNEY: If the testimony is as the government has
15 just articulated, then it will be about the testimony and the
16 slide. Because, what the government has just described is
17 factually incorrect.

18 THE COURT: Okay. And with regard to the income
19 figures?

20 MR. JANNEY: We're not disputing the veracity of the
21 numbers.

22 THE COURT: Okay. With regard to the foundation for
23 these slides, you have some foundational objection to these
24 slides or that is not an issue?

25 MR. JANNEY: The foundational issue doesn't -- there is

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1 no foundational issue.

2 THE COURT: All right. So you're not just going to
3 object to it because there is not a 6-foot high stack of
4 papers.

5 MR. JANEY: No, your Honor.

6 THE COURT: With regard to the second exhibit or
7 exhibits, which have to do with the summary of red flags.

8 MR. JANEY: Yes, your Honor.

9 THE COURT: And I guess that's only one -- no. I
10 guess there is more than one.

11 MR. JANEY: It's pretty replete, because it goes
12 through -- the issue extends, your Honor, to each one of the
13 supporting slides.

14 THE COURT: So, again, my focus is this. Is it your
15 position that the information on these slides is inaccurate?

16 MR. JANEY: It is -- the position, or the objection
17 isn't as to the veracity of the data. The issue is really a
18 403 in large part issue, your Honor, depending on how you view
19 the exhibit. I don't know whether the government views these
20 exhibits as something that the expert will use as a
21 demonstrative in support of his oral testimony, or if the
22 government is seeking to have these exhibits admitted in
23 evidence. But, either way, our submission will address either
24 aspect.

25 THE COURT: Again, that's why, my first question is

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1 whether or not, whether you have a foundational objection,
2 whether you object because the slides are inaccurate in some
3 way, or you have an objection to the nature of this testimony.

4 MR. JANEY: It's not about the veracity of the
5 information. That's not the nature of the objection.

6 THE COURT: All right. So, how soon will I be able to
7 review that?

8 MR. JANEY: You'll have it before 6 p.m., your Honor.

9 THE COURT: Okay.

10 MR. BURNETT: Just so you know, and for Mr. Janey's
11 preparations, we are planning to add I think one additional
12 slide after that bonus slide that we discussed, which breaks
13 out numbers based on controlled substance sales.

14 MR. JANEY: And the only thing I would say, your
15 Honor, is that to the extent that there is an additional slide,
16 that this expert would speak to, particularly given this
17 conversation and we're making the Court aware we intend to make
18 a submission before 6 p.m., it would be helpful if by midday,
19 that we could receive the slide from the government.

20 MR. BURNETT: We'll have it to you.

21 THE COURT: One quick thing, and I think all the
22 jurors are here. You indicated that your expert was a lengthy
23 witness. And I find that, I'm not sure I find that this is
24 particularly driven by expert testimony. First of all, my
25 first question is this: Is there an expert report for me to

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1 review?

2 MR. JANNEY: No, your Honor. We have provided
3 preliminary slides to the government in connection with the
4 expert. And maybe if I can help, your Honor, because I
5 certainly didn't -- it might have been that it was a Friday
6 afternoon, after a week of trial, and perhaps I spoke
7 inartfully. I don't anticipate a two hour testimony from the
8 defense expert.

9 THE COURT: Oh, okay.

10 MR. JANNEY: If that's the question.

11 THE COURT: Well, I'm trying to figure out what the
12 parameters are of these experts. It's unclear to me what kind
13 of expert testimony this witness is going to offer. And I
14 think the reason I asked about expert reports is I'm not sure
15 what the nature of this expert's opinion is going to be.
16 That's what I'm concerned about. And so, if there is a debate
17 over whether or not this expert should testify, my first
18 analysis is to figure out, since we don't have an expert
19 report, I can't go there. But to figure out what it is that
20 this expert, what area this expert will testify about, and what
21 opinions is this expert going to offer.

22 MR. JANNEY: So, to that, your Honor, what we can, if
23 it addresses the issue from the Court's perspective, we can
24 provide the slides that we've submitted to the government to
25 your Honor, with a very brief one-and-a-quarter page cover

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1 letter describing what this expert is going to say, and what
2 the expert's -- what we will elicit in terms of the expert's
3 opinion. And if the Court agrees, we can have that to your
4 Honor by 6 o'clock tomorrow.

5 THE COURT: That would be helpful. Does the
6 government still have some objection to this witness?

7 MR. BURNETT: So I think it sounds like Mr. Janey --
8 correct me if I am wrong -- is referring to Mr. Martinovic.

9 MR. JANNEY: Yes.

10 MR. BURNETT: I think we have one pretty narrow
11 objection. He should be able to testify. There is one narrow
12 objection which I don't know if this is something that
13 Mr. Martinovic plans to get to.

14 MR. JANNEY: The disclosure will be tomorrow.

15 MR. BURNETT: There are two experts noticed though.
16 The thrust of our objections were as to the other expert,
17 Mr. O'Neil, where we don't have any slides and I'm unclear.

18 THE COURT: What is Mr. O'Neil going to testify about?

19 MR. JANNEY: He is a compliance expert, your Honor, but
20 we can address that as well in the further offer of proof we
21 provide by 6 o'clock tomorrow.

22 THE COURT: Let me tell you where I'm focused. I'm
23 focused on the fact that the ultimate issue for this jury is
24 not an expert issue. It seems to me, and you can convince me
25 otherwise, it seems to me that the company was required to have

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1 suspicious order procedures that they follow. Those suspicious
2 order procedures are the rules. They set the rules. So, the
3 question is not whether or not certain things are red flags or
4 not red flags. They've already defined the red flags. Those
5 suspicious order procedures define the nature of the red --
6 seems to me what they are. So, the question is whether or not
7 the company and Mr. Doud followed those procedures.

8 And so, that's an evidentiary issue, that's not a
9 expert issue. Clearly no expert can come in and say, well,
10 they didn't have to follow their procedures, if that's the
11 nature of the witness's testimony.

12 MR. JANNEY: That's not the position of the defense,
13 your Honor, for sure. We haven't elicited testimony to suggest
14 such. That will not be certainly the testimony from
15 Mr. Martinovic, your Honor.

16 There is an issue where we believe that the jury can
17 be helped by an expert and it is on some of the financial
18 issues.

19 THE COURT: When you say some of the financial issues,
20 you're talking about Mr. Doud's financial income or are you
21 talking about broader financial issues with regard to the
22 profits made by the company?

23 MR. JANNEY: Both, quite candidly, your Honor, and they
24 are hook and groove. The government opened in its opening
25 statement argued and put forward and opened the door to the

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1 issue that Mr. Doud was motivated to take certain acts based
2 on -- and I believe I'm quoting the government -- based on
3 greed. And indicated that the jury would see evidence of that,
4 presumably also by and through this particular expert in what
5 he describes. I think it is reasonable to view Mr. Martinovic
6 as a counter expert. We take issue and object to some of the
7 factual explication --

8 THE COURT: What is going to be the nature of his
9 expert testimony to counter their testimony?

10 MR. JANNEY: I'm not sure I'm understanding your Honor.

11 THE COURT: Well, you say he's --

12 MR. JANNEY: There is a question, I believe as an
13 example, your Honor, I believe there is a legitimate question
14 as to the analysis of Mr. Doud's compensation arrangement and
15 how that specifically -- how controlled sales and overall sales
16 actually drove how he was compensated, and I believe there is a
17 legitimate dispute about that.

18 THE COURT: Okay. Well, and we haven't gotten to
19 that, so I haven't focused on that. But my understanding of
20 the way the case has proceeded so far is that I don't
21 understand at this point it to be any more complicated than the
22 government contends that Mr. Doud was motivated to overlook and
23 not follow suspicious order procedures and not report
24 suspicious order reports to the DEA because he would personally
25 profit by the more drugs, controlled substances the company

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1 sold. And they want to show that during the period of time
2 when this, during the period of time he made the most money,
3 that was the period of time when they were not reporting, and
4 that reporting made up a substantial portion of his
5 compensation.

6 MR. JANEY: And that, your Honor, is where the
7 controversy is. I anticipate that the government's expert
8 takes one -- let me back up.

9 There are materials that have not been offered in
10 evidence yet, and as an example of that, your Honor, Mr. Doud's
11 employment agreement, which lays out in detail a relatively
12 complicated formula as to how that compensation is computed, is
13 not something that I believe that the jury would naturally
14 understand through lay testimony. And to relate that
15 computation to the sales of the company, is an aspect where I
16 believe an expert can assist the trier of fact. I believe that
17 is important in this particular case.

18 THE COURT: Okay. That may be the case and I don't
19 know, because I've not gotten that far yet. But it seems to me
20 from the jurors' perspective, they're not analyzing this in
21 that complicated manner. And nor have I so far, based on this
22 evidence, analyzed it in that complicated manner. That the way
23 it seems that so far, the evidence that the government has
24 attempted to offer is, that, look, the numbers -- there was an
25 increase in sales that contributed to Mr. Doud's bonuses and

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1 income. That significant or a portion of that increases in
2 sales is attributed to the sale of controlled substances.

3 So the analysis, the simple analysis as opposed to the
4 complicated analysis before me and the jury is that if Mr. Doud
5 was making \$10 off of all of the sales, and now during this
6 period of time he's making \$15 off of the sales, and a
7 substantial portion of that extra \$5 is as a result of the sale
8 of controlled substances, then it's for the jury to determine
9 whether or not that's what motivated him.

10 MR. JANNEY: I understand, your Honor. I would simply
11 submit in advance, submit to your Honor in advance of our
12 submission to the Court, that that is precisely the fact that
13 we take issue with.

14 THE COURT: Okay.

15 MR. JANNEY: I understand that is the government's
16 presentation. I anticipate that the government's expert will
17 articulate it in the way in which your Honor just described.
18 And you can anticipate that our expert will say that's wrong.

19 MR. BURNETT: To be clear, I don't have, sorry. We
20 don't have an objection to that type of testimony from the
21 expert. I think the one narrow piece I had mentioned was from
22 some notes that were turned over it seemed like there might
23 have been at least some time when Mr. Doud might have had a
24 conversation with the expert, and I want to make sure the
25 expert is not going to effectively channel Mr. Doud's testimony

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1 about what was or wasn't an important part of the business,
2 because we can't cross-examine Mr. Doud unless he takes the
3 stand.

4 THE COURT: So you two can focus and narrow the issue
5 to me and I'll rule on that. To the extent either side doesn't
6 have an objection to the nature of the expert's testimony, then
7 it's not an issue for me.

8 MR. BURNETT: The compliance person is the one we have
9 the more substantial concerns about, but it seems like that
10 might get sorted out.

11 THE COURT: At some point we'll have to resolve the
12 issue about the government's exhibits.

13 MR. JANNEY: That's why we're going to get it to you by
14 6 o'clock.

15 THE COURT: We won't be dealing with those exhibits
16 today?

17 MR. ROOS: Tomorrow. That's why we thought they'd
18 file over the weekend.

19 MR. JANNEY: No. What we articulated is the Court
20 would have it by Monday. Today is Monday.

21 MR. ROOS: Morning.

22 THE COURT: Let's try to get it as early as possible.
23 Let's bring the witness back and let's get the jury in.

24 MR. ROOS: One other issue. On Thursday night, and I
25 know your Honor didn't see it until Friday, we filed this

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1 letter about the scope of the cross-examination of this witness
2 that's on. The summary witness. I can hand up a copy.

3 THE COURT: Do you have that? I was looking for it.
4 I don't think -- do we have that, I don't think we got that. I
5 was looking for, did you file this? Is this one of the two
6 letters you submitted?

7 MR. ROOS: On Thursday night that your Honor saw
8 Friday morning.

9 THE COURT: This is --

10 MR. ROOS: I think your Honor probably saw it and read
11 already. I just want to reraise it because I don't know what
12 Mr. Janey is planning on cross and maybe --

13 THE COURT: I have it highlighted, as a matter of
14 fact.

15 MR. ROOS: Okay.

16 THE COURT: Focus me on what issue you want to be
17 resolved.

18 MR. ROOS: I don't need an issue resolved. I want to
19 flag for your Honor if the defense starts trying to offer a
20 bunch of exhibits through what's just a summary witness, we're
21 going to having a series of objections which are set forth in
22 our letter, and I wanted to flag that, that way your Honor knew
23 what I was talking about as I'm objecting.

24 MR. JANNEY: I think we addressed this pretty
25 thoroughly on Friday in response to this letter. The defense

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1 indicated that we are not going to read e-mails into the
2 record. We're not going to try to offer documents that are not
3 admitted in evidence through this witness.

4 However, to the extent that there are materials that
5 we believe that may not have been incorporated in the summary
6 witness's review, we will mark those for identification. And
7 as I think about it now, I don't think that any of that exists.
8 I think to the extent we ask him questions about things that
9 might have been left out of his review, they will be documents
10 that have already been admitted in evidence.

11 THE COURT: Okay. All right. Is it possible that the
12 government will rest this week?

13 MR. ROOS: I think there is a pretty strong chance of
14 that. Assuming -- I can't assume anything. But say we at
15 least start if not finish the government's expert tomorrow,
16 then it's possible the remainder could be Wednesday.

17 THE COURT: Let's bring the jury in.

18 (Jury present)

19 THE COURT: Good morning, ladies and gentlemen.
20 Ladies and gentlemen, my best estimate at this point is that I
21 believe we should be finished with the witnesses hopefully by
22 the middle of next week. At this point I think we're on that
23 schedule. I'm going to try to see if we move efficiently, I
24 want to see if we can move that schedule up a day or two. But
25 that's my best estimate of where we are.

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Rosenman - Cross

So at this point we'll proceed with the cross-examination of this witness.

MR. JANEY: Thank you, your Honor.

JEREMY ROSENMAN,

CROSS-EXAMINATION

BY MR. JANEY:

Q. Agent Rosenman, good morning.

A. Good morning.

Q. On Friday, you testified that you did not have a role in investigating RDC, correct?

A. That's correct.

Q. You did not participate in the criminal investigation relating to Laurence Doud, correct?

A. Correct.

Q. Your role here as a witness is limited to testifying about the accuracy, the accuracy, of the government's summary slides, based on your review of the underlying case material the government provided you, correct?

A. Yes.

Q. If we could have Government Exhibit 902 that we were all viewing on Friday.

Agent Rosenman, do you recall this exhibit?

A. Yes.

Q. Drawing your attention to slide six of the presentation.
Do you have that there?

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Rosenman - Cross

1 A. Yes, I do.

2 Q. Drawing your attention in particular to what I'll call the
3 first bubble, which is the first box and if we could illuminate
4 that for the witness. Thank you.

5 You testified here about an e-mail from Carlos Aquino
6 to William Pietruszewski copying Larry Doud and others at RDC.
7 Correct?

8 A. Yes.

9 Q. Among other things, what Aquino is saying in the e-mail,
10 and drawing your attention to the last line in this bubble if
11 we can highlight that for the witness. The last thing, it
12 reads: The last thing RDC needs is to have DEA place their
13 crosshairs on RDC because of their willful blindness and
14 deliberate ignorance.

15 Correct? Is that what that says?

16 A. Yes.

17 Q. And this box is, this quotation from the e-mail is just an
18 excerpt of a broader e-mail; is that correct?

19 A. Yes.

20 Q. Let's look at the underlying document that's identified
21 here in relation to the bubble, what's marked as Government
22 Exhibit 24. If we could have that on the screen.

23 Drawing your attention now to Government Exhibit 24,
24 and looking at the part of the e-mail chain immediately below
25 the portion you read on Friday captured in the bubble, and

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Rosenman - Cross

1 immediately below is the e-mail chain from Bill Pietruszewski
2 to Carlos Aquino dated February 3. If we could pop that out
3 for the witness.

4 MR. ROOS: I'm sorry. I don't mean to interrupt
5 Mr. Janey. My monitor is not working.

6 THE COURT: We'll get tech up here and let's see if it
7 is plugged in or turned on.

8 MR. ROOS: I don't mean to interrupt the -- oh, it's
9 on, it's on. Thank you.

10 THE COURT: Okay.

11 BY MR. JANNEY:

12 Q. Just to refocus, Agent, we're looking at Government Exhibit
13 24, correct?

14 A. Yes.

15 Q. And drawing your attention to the broader e-mail chain and
16 the e-mail specifically below that's been drawn out for your
17 attention from Bill Pietruszewski to Carlos Aquino. Do you see
18 that e-mail there?

19 A. Yes, I do.

20 Q. Drawing your attention in particular to the first two
21 sentences in that e-mail. If you could read it for the jury.

22 A. Yes. It says: We could ask 10 customers for dispensing
23 information today, and I probably would receive all 10 in a
24 different format. I have asked and gave all salesmen how it
25 must be for us and we still do not receive it in the correct

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Rosenman - Cross

1 format.

2 Q. Now, pausing there for a moment. Isn't it fair to say that
3 Mr. Pietruszewski is discussing receiving dispensing
4 information from customers and receiving it in the correct
5 format?

6 A. Yes.

7 Q. In the next sentence, well, the sentence thereafter
8 beginning with "so." Do you see that?

9 A. Yes.

10 Q. If we can draw that out for the witness, please. He goes
11 on to say: So this at times can be challenging for us -- that
12 is receiving dispensing information in the correct format --
13 but with Jessica on board I see this will improve.

14 That's what he says, correct?

15 A. That's what the e-mail says, yes.

16 Q. Mr. Pietruszewski then says: For me to tell a customer
17 could be a stockholder they must respond or supply the
18 information asked within 10 days and that we would suspend
19 their orders must be a talk with upper management, something
20 that is not my ultimate decision.

21 Correct?

22 A. Yes, that's what it says.

23 Q. So, when Mr. Aquino in the bubble excerpt that you
24 testified about on Friday, when Mr. Aquino responds the last
25 thing RDC needs is to have DEA place their crosshairs on RDC

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Rosenman - Cross

1 because of their willful blindness and deliberate ignorance,
2 based on your review of the entire e-mail, and this thread,
3 Aquino is not making a specific assessment about any particular
4 condition at RDC, is he, Agent Rosenman?

5 A. I don't know specifically what he was thinking when he
6 responded.

7 Q. But you see what the e-mail chain below reads, correct?

8 A. Yes.

9 Q. In fact, with respect to the dispensing issue
10 Mr. Pietruszewski describes, when he describes it there,
11 Aquino's response -- just drawing your attention back to the
12 e-mail thread above, and looking at the last paragraph, he says
13 if you want, PCG -- let's pause there for a moment.

14 What is PCG, Agent Rosenman?

15 A. I don't know offhand.

16 Q. It is Aquino's company, correct?

17 A. That's what it seems from the signature block.

18 Q. He says: If you want, PCG can contact customers on your
19 behalf and get their information.

20 Correct? That's what he says, right?

21 A. That's what the e-mail says.

22 Q. And Aquino goes on to say: You chose the customer and we
23 will see that they provide the information. Correct?

24 A. Yes, that's what it says.

25 MR. JANNEY: We can take that down, please.

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Rosenman - Cross

1 Q. Again, you had no role in preparing the slides here that
2 you're testifying about, correct?

3 A. In choosing the items in the slides?

4 Q. Well, let's break it into parts. Did you choose the items
5 in the slides?

6 A. No.

7 Q. Right. Did you prepare the slides themselves?

8 A. No.

9 Q. Your role was simply to review these slides to is assess
10 whether they were accurate in relation to the underlying
11 information provided to you by the prosecutors in this case,
12 correct?

13 A. Correct.

14 Q. With respect to the underlying documents you were provided,
15 I want to draw your attention to what's been admitted in
16 evidence as Defense G6 if we could have that.

17 This is a copy of a suspicious order activity report
18 filed by RDC on January 20, 2017.

19 Do you recognize this document?

20 A. No.

21 Q. Was this document included among the underlying materials
22 provided to you for your review by the prosecutors in support
23 of your testimony?

24 A. No.

25 MR. JANNEY: We can take this down.

M1o3dou1

1 Q. Drawing your attention to what has been admitted in
2 evidence as Defense G7. Can we have that, please.

3 This is a copy of a suspicious order activity report
4 filed by RDC on January 23, 2017, in particular, submitted by
5 William Pietruszewski.

6 Do you recognize this document?

7 A. No.

8 Q. Was this document included among the underlying materials
9 provided to you for your review by the prosecutors in this case
10 in support of your testimony?

11 A. No.

12 Q. Were any suspicious order activity reports filed by RDC
13 provided to you among the underlying documents you were asked
14 to review in aid of your testimony?

15 A. No.

16 MR. JANEY: No further questions, your Honor. We can
17 take the exhibit down.

18 THE COURT: Any further questions for this witness by
19 the government?

20 MR. ROOS: No, your Honor.

21 THE COURT: Thank you, sir. You can step down.

22 (Witness excused)

23 THE COURT: The government call its next witness.

24 MS. ROTHMAN: Your Honor, the government calls William
25 Pietruszewski. With the Court's permission, I'd like to read a

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1 few exhibits and offer them.

2 THE COURT: A few stipulations?

3 MS. ROTHMAN: Two certifications. I'll do it at that
4 podium.

5 THE COURT: I'm sorry?

6 MS. ROTHMAN: I'll do that at the podium.

7 THE COURT: Yes.

8 MS. ROTHMAN: Your Honor, first the government would
9 offer Government Exhibit 703, which is a certification signed
10 by Dominic Pagnotta, the former CIO of RDC. And pursuant to
11 Government Exhibit 703, the government would offer into
12 evidence Government Exhibits 281 through 290, including all
13 subparts, which are true and correct copies of dispensing data
14 received by RDC from the pharmacies listed on Government
15 Exhibit 703, pursuant to Rules 803(6), 902(11) and 902(14) of
16 the Federal Rules of Evidence.

17 THE COURT: Any objection?

18 MR. GOTTLIEB: I don't have it in front of me. I want
19 to make sure that is the stipulation that we signed.

20 MS. ROTHMAN: This is the certification from Dominic
21 Pagnotta of RDC.

22 MR. GOTTLIEB: Okay.

23 MS. ROTHMAN: We can publish 703 to the jury.

24 THE COURT: Do you have any objection first?

25 MR. GOTTLIEB: No, your Honor.

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1 THE COURT: It will be admitted in evidence.

2 MS. ROTHMAN: Thank you.

3 (Government's Exhibit 703, 281 through 290 received in
4 evidence)

5 MS. ROTHMAN: We can flip to the second page. We can
6 take that down.

7 The second, your Honor, we would also offer Government
8 Exhibit 701, which is a signed certification, again by Dominic
9 Pagnotta, the former CIO of Rochester Drug Co-Operative, and
10 pursuant to Government Exhibit 701, the government would offer
11 Government Exhibits 252 through 254, 260, 263 through 266, 267A
12 through 2670, 268A through 268D, 268J and 280, as business
13 records of Rochester Drug Co-Operative pursuant to Federal
14 Rules of Evidence 803(6) and 902(11).

15 THE COURT: Any objection?

16 MR. GOTTLIEB: No, your Honor.

17 THE COURT: It will be admitted in evidence.

18 MS. ROTHMAN: Your Honor the government calls William
19 Pietruszewski.

20 (Government's Exhibit 701, 252 through 254, 260, 263
21 received in evidence)

22 (Government's Exhibit 263 through 266, 267A through
23 2670 received in evidence)

24 (Government's Exhibit 268A through 268D, 268J, 280
25 received in evidence)

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Pietruszewski - Direct

1 THE COURT: You can inquire.

2 MS. ROTHMAN: Thank you, your Honor.

3 WILLIAM PIETRUSZEWSKI,

4 called as a witness by the Government,

5 having been duly sworn, testified as follows:

6 DIRECT EXAMINATION

7 BY MS. ROTHMAN:

8 Q. How old are you?

9 A. 55.

10 Q. Do you currently work?

11 A. Yes.

12 Q. Where do you work?

13 A. I work for Militti Sales and Promotions.

14 Q. What do you do there?

15 A. I am a warehouse manager.

16 Q. Do you know the company Rochester Drug Co-Operative?

17 A. Yes.

18 Q. How do you know it?

19 A. I used to work there.

20 Q. When did you work there?

21 A. From March of 2001 until July 2018.

22 Q. What was your job at RDC?

23 A. I was the operations compliance manager.

24 Q. What responsibilities did you have at RDC?

25 A. I would be responsible for the warehouse day and night, the

M1o3dou1

Pietruszewski - Direct

1 security of the facility, I took care of the logistics for all
2 of the company's transportation -- deliveries, transportation,
3 human resource as in doing the hiring and firing of employees.
4 And also worked in compliance.

5 Q. With respect to compliance, who did you report to?

6 A. To Larry Doud and Joe Brennan.

7 Q. Mr. Pietruszewski, did you commit crimes at RDC?

8 A. Yes.

9 Q. What crimes did you commit?

10 A. I participated in a conspiracy to -- distribute narcotics,
11 I participated in a conspiracy to defraud the DEA, and I failed
12 to report suspicious orders. Failure to file suspicious
13 orders.

14 Q. Who did you conspire with when you conspired to violate the
15 narcotics laws?

16 A. Mr. Doud.

17 Q. Who did you conspire with when you conspired to defraud the
18 DEA?

19 A. Mr. Doud.

20 Q. Do you see Mr. Doud in the courtroom today?

21 A. Yes.

22 Q. Can you please identify him by where he's seated.

23 A. The second desk in the middle.

24 MS. ROTHMAN: Let the record reflect the witness has
25 identified the defendant.

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Pietruszewski - Direct

1 THE COURT: The record will so reflect.

2 Q. Have you pled guilty to those crimes?

3 A. Yes, I have.

4 Q. When you pled guilty, was it sworn under oath?

5 A. Yes, it was.

6 Q. Was that under penalties of prosecution for perjury?

7 A. Yes.

8 Q. Before you pled guilty, did you enter into a cooperation
9 agreement with the government?

10 A. Yes.

11 MS. ROTHMAN: Ms. Drescher, can you please pull up for
12 the witness what's been marked for identification as 3529-12.

13 Q. Mr. Pietruszewski, do you recognize that document?

14 A. Yes.

15 Q. What is it?

16 A. It is -- my agreement with the government.

17 MS. ROTHMAN: The government offers into evidence
18 3529-12.

19 THE COURT: Any objection?

20 MR. GOTTLIEB: No objection. Is that marked as a
21 government exhibit?

22 MS. ROTHMAN: We're using the 3500 number. But we can
23 give it a government exhibit number if you'd like.

24 MR. GOTTLIEB: Okay. That's up to the government. No
25 objection, your Honor.

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Pietruszewski - Direct

1 THE COURT: Then it will be admitted in evidence as
2 that exhibit.

3 (Government's Exhibit 3529-12 received in evidence)

4 MS. ROTHMAN: May we publish to the jury.

5 THE COURT: Yes.

6 MS. ROTHMAN: Thank you.

7 Q. Now that everyone can see, Mr. Pietruszewski, what are we
8 looking at?

9 A. Looking at my -- the three counts of what I pled guilty to.

10 Q. Is this your cooperation agreement?

11 A. Yes.

12 MS. ROTHMAN: Ms. Drescher, can you flip through the
13 six pages until you get to the last page.

14 Q. Is that your signature on the last page?

15 A. Yes, it is.

16 MS. ROTHMAN: We can go back to the first page. Thank
17 you, Ms. Drescher.

18 Q. How many crimes did you commit?

19 A. I committed three crimes.

20 Q. What was the first crime you committed?

21 A. I -- participation in a conspiracy to distribute narcotic
22 drugs.

23 MS. ROTHMAN: We can zoom in on the first paragraph,
24 Ms. Drescher. Thank you. Just highlight the words "Count One"
25 and "participation in a narcotics distribution conspiracy from

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Pietruszewski - Direct

1 January 2012 until March 2017."

2 Thank you. We zoom out and go to the third paragraph
3 of page one.

4 Q. What was the second crime that you committed?

5 A. Participation in a conspiracy of defrauding the DEA by not
6 reporting suspicious orders and not alerting the DEA of
7 customers that were diverting controlled substances.

8 MS. ROTHMAN: We can zoom out and go to the final
9 paragraph on the first page.

10 Q. What was the third crime that you committed?

11 A. Not -- failure to file suspicious orders with the DEA.

12 Q. Did you plead guilty to each of those three crimes?

13 A. I did.

14 MS. ROTHMAN: If we turn to page two of this
15 agreement, Ms. Drescher, and zoom in on the bottom paragraph.

16 Q. Mr. Pietruszewski, do you see where it says (i)
17 participation in a conspiracy to distribute fentanyl and
18 oxycodone outside the scope of professional practice and not
19 for a legitimate medical purpose?

20 A. Yes.

21 Q. Did you participate in a conspiracy to distribute fentanyl
22 and oxycodone outside the scope of professional practice and
23 not for a legitimate medical purpose?

24 A. Yes.

25 Q. Did you plead guilty to that crime?

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Pietruszewski - Direct

1 A. Yes, I did.

2 Q. Who did you conspire with to distribute fentanyl and
3 oxycodone outside the scope of professional practice and not
4 for a legitimate medical purpose?

5 A. With Mr. Doud.

6 Q. What did you do that made you guilty of conspiring to
7 illegally distribute oxycodone and fentanyl?

8 A. By releasing orders of interest that had red flags that the
9 customers were diverting the controlled substances.

10 Q. Do you see in the same paragraph where it reads (ii)
11 participation in a conspiracy to defraud the DEA by failing to
12 file suspicious order reports and notify the DEA of customers
13 diverting controlled substances?

14 A. Yes.

15 Q. Did you participate in a conspiracy to defraud the DEA by
16 failing to file suspicious order reports and notify the DEA of
17 customers diverting controlled substances?

18 A. Yes.

19 Q. Did you plead guilty to that crime?

20 A. Yes.

21 Q. Who did you conspire with to defraud the DEA?

22 A. Mr. Doud.

23 Q. What did you do that made you guilty of defrauding the DEA?

24 A. By not reporting the pharmacies that had the red flags that
25 were -- suspicious orders.

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Pietruszewski - Direct

1 MS. ROTHMAN: If we can go to the top of the third
2 page. Thank you, Ms. Drescher.

3 Q. Do you see where it says (iii) failure to file suspicious
4 order reports with the DEA?

5 A. Yes.

6 Q. Did you commit the crime of failing to file suspicious
7 order reports with the DEA?

8 A. Yes.

9 Q. Did you plead guilty to that crime?

10 A. Yes.

11 Q. What did you do that made you guilty of failing to file
12 suspicious order reports with the DEA?

13 A. I did not file suspicious order reports to the DEA.

14 Q. Who, if anyone, directed you not to file suspicious order
15 reports to the DEA?

16 MR. GOTTLIEB: I'm going to object to that as to being
17 leading, as to direction.

18 THE COURT: Overruled. She said "who." It's not a
19 leading question.

20 A. Mr. Doud.

21 Q. Mr. Pietruszewski, when you conspired with Mr. Doud, did
22 you discuss with Mr. Doud RDC's suspicious order monitoring
23 program?

24 A. Yes.

25 Q. Did you discuss with Mr. Doud compliance problems at RDC's

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Pietruszewski - Direct

1 pharmacy customers?

2 A. Yes.

3 Q. Did you discuss with Mr. Doud suspicious doctors whose
4 prescriptions were being filled at RDC pharmacy customers?

5 A. Yes.

6 Q. Based on your conversations with Mr. Doud, what is your
7 understanding as to whether or not Mr. Doud wanted to invest in
8 RDC's compliance department?

9 MR. GOTTLIEB: Your Honor, objection as to the form of
10 that question. Objection.

11 THE COURT: Sustained as to the form of the question.

12 Q. Based upon your conversations with Mr. Doud, do you have an
13 understanding of whether or not Mr. Doud wanted to invest in
14 RDC's compliance department?

15 MR. GOTTLIEB: Objection.

16 Withdrawn.

17 A. Mr. Doud didn't want to spend money on compliance.

18 Q. Why not?

19 A. He thought it was a waste of money. We had nothing to --
20 nothing, no return investment.

21 MS. ROTHMAN: We can take down Mr. Pietruszewski's
22 cooperation agreement. Thank you.

23 Q. Let's start with some background.

24 In what year did you join RDC?

25 A. I started in March of 2001.

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Pietruszewski - Direct

1 Q. Who hired you?

2 A. Mr. Doud and Jim Giambrone.

3 Q. What was your first job at the company?

4 A. I was a night supervisor.

5 Q. What did you do in that role?

6 A. I would support the night manager and I would be
7 supervising the night shift, making sure that the orders came
8 out, that we picked the orders in a timely fashion, and that
9 the trucks would leave in a timely fashion.

10 Q. What, if any, role did you take on after that?

11 A. In 2000 -- I think it was the summer of 2004 that I went on
12 to days as a days manage -- days operations.

13 Q. What did you do in that role?

14 A. I would work with the receiving department, the returns
15 department, I was responsible for the control room, so doing
16 inventory of the controlled substances, filling narcotic
17 orders, billing narcotic orders, dealing with the
18 transportation and customer problems, like, if customers
19 received a mispick or a shortage, we'd have to investigate that
20 and resolve it.

21 Q. When did you start to take on compliance responsibilities?

22 A. In 2006 I was asked to take on the reporting of ARCOS,
23 which we would submit monthly to the DEA.

24 Q. Were there other things you were asked to do around that
25 time?

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Pietruszewski - Direct

1 A. Yes. Ed Kirker, who was my supervisor or my direct boss at
2 the time, asked if I would be, would like to take on a
3 compliance role.

4 Q. So what are some of the things you did in that role, aside
5 from ARCOS data?

6 A. Well, I would meet with manufacturers, and we would --
7 manufacturer would come in and they would want to know
8 processes of storage of pharmaceuticals or how we picked them
9 or just receiving the product in.

10 Q. Did you have any involvement in organizing a questionnaire
11 that RDC used for its customers?

12 A. I -- I did not actually organize the questionnaire. My
13 responsibility, it was devised by the upper management of I
14 believe, like Al Emmans and Joe Brennan, and I would receive
15 the questionnaire from the customers via fax or by mail or by
16 the salesmen.

17 Q. What would you do with the questionnaire when you got it?

18 A. Well, when we started receiving them, I really had nowhere
19 to put them. So we started a file for them, and we would put
20 them inside of a folder and file them on a daily basis, when
21 they would come in.

22 Q. As you took on this compliance work, were you still working
23 in and managing the warehouse?

24 A. Yes.

25 Q. How many hours a week were you spending on compliance

M1o3dou1

Pietruszewski - Direct

1 tasks?

2 A. Well, once we were doing the survey and the ARCOSing, maybe
3 15 hours a week.4 Q. With time, what title did you assume in the compliance
5 department?6 A. I ended up being the -- it was operations compliance
7 manager.

8 Q. Was that the effective head of compliance?

9 A. Yes.

10 Q. Did you have any training in compliance?

11 A. No, I did not.

12 Q. Did you have any education in compliance?

13 A. No, I did not.

14 Q. Did you have any experience in compliance before joining
15 RDC?

16 A. No, I did not.

17 Q. In 2012, who was in the compliance department at RDC?

18 A. It was myself.

19 Q. Anyone else?

20 A. Not at that time, no.

21 Q. What about in 2013?

22 A. 2013 we did start using a consultant, Carlos Aquino, and
23 then in November 2013 we hired Jessica Pompeo.

24 Q. What about in 2014?

25 A. 2014, I believe it was May of 2014, we hired Julius Morton.

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Pietruszewski - Direct

1 Q. Were there additional hires to the compliance department in
2 2015 and 2016?

3 A. Yes. We brought on Liz Cullen, Amy -- I forget her last
4 name, and then also Karen Stevens.

5 Q. Let me ask you about Ms. Cullen. What, if any,
6 relationship did Ms. Cullen have to any other RDC employee?

7 A. Liz's father was Richie Cullen. He was the general manager
8 of Fairfield facility.

9 Q. You also mentioned someone named Karen Stevens.

10 A. Yes.

11 Q. How did Ms. Stevens wind up in the compliance department?

12 A. She used to work I believe it was in accounts receivable.
13 And she was in some type of argument with someone, and she
14 ended up being demoted to compliance. It was like her -- it
15 was, yeah, she was demoted to compliance.

16 Q. Were the individuals you just listed enough help to do all
17 the things that RDC needed to do with respect to compliance?

18 A. No.

19 Q. Did you speak with Mr. Doud about needing more help in the
20 compliance department?

21 A. We did, yes.

22 Q. What, if anything, did Mr. Doud say in response?

23 A. That I had enough help and that compliance, again, there
24 was no return on investment.

25 Q. What, if any, compliance tasks were you unable to do

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Pietruszewski - Direct

1 because of the understaffing in the compliance department?

2 A. Analyzing the data of the pharmacies, doing store audits.

3 Q. When you worked at RDC, where were you based?

4 A. I was based in Rochester, New York.

5 Q. Did you stay in Rochester or did you go somewhere else with
6 time?

7 A. Yes, I started working in Fairfield, New Jersey, in like
8 December of 2014.

9 Q. Why did you start working in Fairfield?

10 A. I asked to take on the responsibilities of the warehouse
11 manager of that facility.

12 Q. Why did RDC open a facility in Fairfield?

13 A. It was closer to the bulk of our customers. I mean,
14 majority of our customers were growing in New Jersey,
15 Connecticut and New York City.

16 MS. ROTHMAN: Ms. Drescher, can you please pull up
17 what's in evidence as Government Exhibit 612.

18 Q. Mr. Pietruszewski, do you recognize this photograph?

19 A. Yes.

20 Q. What is this photograph?

21 A. That is Rochester Drug's office and warehouse at 50 Jetview
22 Drive in Rochester, New York.

23 MS. ROTHMAN: We can take this down and please pull up
24 for the witness what's been marked for identification as
25 Government Exhibit 613.

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Pietruszewski - Direct

1 Q. Do you recognize this photograph?

2 A. Yes.

3 Q. What is it a photograph of?

4 A. That is our facility in Fairfield, New Jersey.

5 Q. Is that a fair and accurate picture?

6 A. Yes.

7 MS. ROTHMAN: The government offers into evidence
8 Government Exhibit 613.

9 THE COURT: Any objection?

10 MR. GOTTLIEB: No, your Honor.

11 THE COURT: It will be admitted in evidence.

12 (Government's Exhibit 613 received in evidence)

13 MS. ROTHMAN: May we publish to the jury?

14 THE COURT: Yes.

15 MS. ROTHMAN: Thank you.

16 Q. What do we see on this screen, Mr. Pietruszewski?

17 A. This is the front entrance going into the office of the
18 Fairfield facility, and to the left there is a door that would
19 lead to the cafeteria for the employees.

20 MS. ROTHMAN: Thank you. If we can please pull up for
21 the witness what's been marked for identification as Government
22 Exhibit 617.

23 Q. Do you recognize this photograph?

24 A. Yes.

25 Q. What is it a photograph of?

1 M1o3dou1

Pietruszewski - Direct

1 A. It is a photograph of the RDC Fairfield, New Jersey,
2 facilities doublechecks area. This is upstairs in the
3 mezzanine.

4 Q. Is it a fair and accurate photograph of the interior of
5 RDC's warehouse in Fairfield?

6 A. Yes.

7 MS. ROTHMAN: Your Honor, at this time the government
8 offers into evidence Government Exhibit 617.

9 THE COURT: Any objection?

10 MR. GOTTLIEB: No, your Honor.

11 THE COURT: It will be admitted in evidence.

12 (Government's Exhibit 617 received in evidence)

13 MS. ROTHMAN: May we publish to the jury?

14 THE COURT: Yes.

15 MS. ROTHMAN: Thank you.

16 Q. Mr. Pietruszewski, can you tell us what we're looking at?

17 A. Sure. There is a -- right in front there is the table and
18 that's like a screen, computer doublecheck station. And the
19 conveyor, the totes would travel down the conveyor, and the
20 employee would lift the tote up, put it on the table, take the
21 product out and they would doublecheck it, scan it, verify
22 everything was there, and then they would put the tote back on
23 the conveyor. Once it's done, it would go through the conveyor
24 system, the invoices would be dropped down on it, the totes
25 would be dropped down, and the tote would be sealed and it

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Pietruszewski - Direct

1 would go down to shipping.

2 Q. You're referring to the word "tote." What is a tote?

3 A. That is the blue bin that has the RDC logo that's on a
4 table and also behind us. Yes. That's the tote, sorry.

5 Q. Thank you. We can take that down.

6 I want to talk about RDC's suspicious order monitoring
7 program. Are you familiar with that program?

8 A. Yes.

9 Q. When did RDC first implement its suspicious order
10 monitoring program?

11 A. It was in -- April of 2009.

12 Q. Generally speaking, what was the program designed to do?

13 A. It would alert us if customers would go over their limit of
14 controlled substances.

15 Q. If a customer went over their limit, what would happen to
16 their order under the system?

17 A. It would send us an e-mail text alerting us, and it would
18 go on hold.

19 Q. So if an order was held initially, is that because someone
20 in compliance wanted it held or because the program
21 automatically did that?

22 A. The program automatically did that for us.

23 Q. Now, did RDC have written policies that went along with the
24 suspicious order monitoring program?

25 A. Yes, we did.

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Pietruszewski - Direct

1 Q. Under RDC's written policies, what was RDC supposed to do
2 when an order was flagged as an order of interest by the
3 suspicious order monitoring program?

4 A. We were to look at our dispensing for the store or obtain
5 dispensing from the pharmacy, review it. And then if it was
6 sufficient enough data, we would release the order. And if the
7 information we received was not, we were not to release the
8 order, and we would -- should have reported it to the DEA.

9 Q. Did RDC do that?

10 A. No, we did not.

11 Q. What instead did RDC typically do with orders of interest
12 flagged by the suspicious order monitoring system?

13 A. We would release the orders.

14 Q. I think you testified that there were two requirements, the
15 first to investigate and the second if an order was held, to
16 report that to the DEA. Is that right?

17 A. That is correct.

18 Q. Did RDC report suspicious orders to the DEA?

19 A. Very few.

20 Q. Did you and Mr. Doud discuss reporting suspicious orders to
21 the DEA?

22 A. Yes.

23 Q. What, if anything, did Mr. Doud say about reporting
24 suspicious orders to the DEA?

25 A. That it wasn't our responsibility to police the pharmacies.

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Pietruszewski - Direct

1 That that was the DEA's responsibility.

2 Q. Did Mr. Doud say that RDC would not report customers?

3 MR. GOTTLIEB: Your Honor, objection. If we could
4 just have a direct questions. Objection.

5 THE COURT: I'll sustain the objection to the leading
6 nature.

7 Q. What, if anything, did Mr. Doud say RDC should do about
8 reporting customers to the DEA?

9 A. We didn't report the pharmacies.

10 Q. What, if any, concerns did Mr. Doud have if RDC were to
11 report customers?

12 MR. GOTTLIEB: Objection as to what concerns he had.

13 THE COURT: Overruled.

14 MR. GOTTLIEB: Not to the question about what was said
15 to him, your Honor.

16 THE COURT: Overruled. He can answer that in that
17 context.

18 THE WITNESS: I can answer?

19 THE COURT: Yes.

20 A. That other customers wouldn't trust RDC and that, you know,
21 that they wouldn't want to order from RDC, because we were
22 turning customers in.

23 Q. Based upon those conversations with Mr. Doud, did you
24 report suspicious orders to the DEA?

25 A. No. Very, very few.

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Pietruszewski - Direct

1 Q. Why not?

2 A. We didn't -- we worked with our customers. We tried to
3 help the independent pharmacy.

4 Q. Part of working with the customers is that you didn't
5 report them; is that right?

6 A. Yes.

7 Q. Now, would you discuss every order of interest held by
8 RDC's suspicious order monitoring system with Mr. Doud?

9 A. No.

10 Q. Would you have released all of those orders of interest if
11 Mr. Doud hadn't approved of you doing so?

12 A. No.

13 Q. I want to talk about the suspicious order monitoring system
14 in a little more detail, and specifically, how the program got
15 started.

16 Ms. Drescher can we pull up what's in evidence as
17 Government Exhibit 273. If we can flip through to the second
18 page. And then go back to the first page.

19 Do you recognize this letter?

20 A. Yes.

21 Q. What is it?

22 A. It is a letter from the DEA government saying that
23 wholesalers or manufacturers had to have a robust suspicious
24 monitoring program.

25 Q. Where did you first see this letter?

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Pietruszewski - Direct

1 A. Inside my mail bin at the office.

2 Q. Was there anything on the letter?

3 A. Yes. It was a blue sticky note saying that we had to meet
4 to discuss.

5 Q. I'm sorry, continue.

6 A. No, I was saying the blue note had the RDC logo as well.

7 Q. Who was the blue note from?

8 A. From Mr. Doud.

9 Q. How did you know the blue note was from Mr. Doud?

10 A. He was the only one that did use blue notes, but he would
11 sign it as well.

12 MS. ROTHMAN: If we can zoom in on the second
13 paragraph and highlight the sentence that begins "in addition
14 to."

15 Q. And Mr. Pietruszewski, can you read the first two sentences
16 of this paragraph.

17 A. Yes.

18 In addition to, and not in lieu of, the general
19 requirement under 21 U.S.C. 823 that manufacturers and
20 distributors maintain effective controls against diversion, DEA
21 regulations require all manufacturers and distributors to
22 report suspicious orders of controlled substances.

23 MS. ROTHMAN: Thank you. We can zoom out. Thank you,
24 Ms. Drescher.

25 Q. What did you do after receiving this letter in your mail

M1o3dou1

Pietruszewski - Direct

1 bin at RDC?

2 A. The blue note had other people's names on it. Had Ed
3 Kirker's name on it as well, he was my supervisor. So I went
4 and spoke with him about it, and about how we were going to get
5 started on this project.

6 Q. Did you meet with Mr. Doud about the letter?

7 A. We did. Yes.

8 Q. What happened at that meeting?

9 A. We presented some ideas that we had of how we could make
10 the program and that we were going to need, you know, IT
11 support for this.

12 Q. What did you do after the meeting with Mr. Doud?

13 A. I know we had a CFR handbook, and I referred to the CFR
14 handbook, and I went on to the section that the -- 21 CFR
15 1307.74 I believe it was. And I saw that there was, like,
16 factors that we could use and mentioned about a rolling
17 average, and I shared that information with Mr. Kirker, and we
18 sort of devised an idea of how the program would work, and then
19 we worked with the IT department as well.

20 (Continued on next page)

M10VDOU2

Pietruszewski - Direct

1 BY MS. ROTHMAN:

2 Q. Had you ever developed a suspicious order monitoring
3 program before?

4 A. No, I did not.

5 Q. Had you ever read the CFR before that day?

6 A. No, I have not.

7 Q. How long did it take RDC to develop its suspicious order
8 monitoring program?

9 A. About a year.

10 Q. Why did it take that long?

11 A. It was pretty complex. It was like, I believe, 300 drug
12 groups. We had to put the drugs into the groups, we had to
13 figure out about the rolling average for a year. IT just had,
14 you know, issues developing it.

15 Q. Did you speak with Mr. Doud while the suspicious order
16 monitoring program was in progress?

17 A. I did, yes.

18 Q. What, if anything, did Mr. Doud say about the development
19 of the suspicious order monitoring program?

20 A. That it was just taking too long to develop, and to push
21 along the IT staff to get this project done so then they could
22 work on, you know, more pressing needs.

23 Q. By when was the program up and running?

24 A. It was April of 2009.

25 MS. ROTHMAN: Ms. Drescher, if we can pull up for the

M10VDOU2

Pietruszewski - Direct

1 witness what's been marked for identification as Government
2 Exhibit 274.

3 Q. Do you recognize this document?

4 A. I do.

5 Q. What is it?

6 A. It is a letter to Agent Bill Kane of the Buffalo office
7 that we reported to explaining to him that we had a suspicious
8 monitoring program and how it would work.

9 Q. Is this a fair and accurate copy of your letter to Agent
10 Kane?

11 A. Yes.

12 MS. ROTHMAN: Your Honor, the government offers into
13 evidence Government Exhibit 274.

14 THE COURT: Any objection?

15 MR. GOTTLIEB: No objection.

16 THE COURT: It will be admitted into evidence.

17 (Government's Exhibit 274 received in evidence)

18 MS. ROTHMAN: May we publish to the jury?

19 THE COURT: Yes.

20 MS. ROTHMAN: Thank you.

21 If we can just zoom in on the top half of the letter,
22 please. Thank you, Ms. Drescher.

23 Q. Mr. Pietruszewski, what is this letter?

24 A. Again, it's a letter explaining our SOM and also letting
25 the DEA know that we did devise one.

M10VDOU2

Pietruszewski - Direct

1 Q. You can read the first paragraph beginning at "We."

2 A. Yes.

3 We at RDC have been working to establish a better way
4 to monitor our sales of narcotic and controlled substances to
5 the pharmacies that we service. This has been a program that
6 has taken us a year to complete, and we now can better monitor
7 all transactions on the front side. So any order that is
8 placed and is over a particular customer usage which was
9 determined by the DEA CFR handbook would be stopped. Once
10 proper documentation from our customer is obtained, we will
11 ship them the drug in question.

12 Q. Just a few questions about this paragraph.

13 Where you wrote: Once proper documentation from our
14 customers is obtained, what type of information was RDC relying
15 on at that time?

16 A. We were relying on usage information.

17 Q. What is usage information?

18 A. That is most of our customers would buy from multiple drug
19 wholesalers like ourselves. And that would be all the
20 purchases of that drug or that group of drugs for a month.

21 Q. And what would you do with the usage information?

22 A. We would tabulate it. We would add up for the month, and
23 then we would use our factor. If it was a control, it was
24 multiplied by five times; if it was narcotics, it was three
25 times. And then we would increase the limit.

M10VDOU2

Pietruszewski - Direct

1 Q. Basically, if a customer wanted more oxycodone and they
2 could show they were using more oxycodone, RDC would ship them
3 held orders and give them more oxycodone?

4 A. Yes.

5 Q. At the time was RDC looking at the doctors who were
6 prescribing that medication?

7 A. No, we were not.

8 Q. Was RDC looking at the pill counts of the different
9 prescriptions?

10 A. No, we were not.

11 Q. Was RDC looking at the distance between the pharmacy and
12 the patient?

13 A. No, we were not.

14 Q. Was RDC looking at the method of payment for those
15 controlled substances?

16 A. No, we were not.

17 Q. Now, if you look at the second paragraph.

18 MS. ROTHMAN: Ms. Drescher, we can just highlight
19 that.

20 Q. And I'll ask you to read that paragraph, Mr. Pietruszewski.

21 A. Sure.

22 The report labeled DEA month-end orders of suspicious
23 order report is an order that we feel is suspicious, such as
24 ordering three times greater their normal usage and the
25 customer would not supply RDC with any documentation to support

M10VDOU2

Pietruszewski - Direct

1 the purchase.

2 Q. Did RDC routinely report suspicious orders to the DEA?

3 A. No, we did not.

4 Q. Were there times when RDC would release held orders, even
5 if it didn't have usage data for a customer?

6 A. Yes.

7 Q. Why would RDC do that?

8 A. We would do it because we would be notified. We get an
9 order of interest, and the salesman would generally either call
10 Joe Brennan or Larry Doud and complain about the customer not
11 receiving an order that was held. And we would end up many
12 times releasing the order.

13 MS. ROTHMAN: We can take that down.

14 If we can now pull up what's in evidence as Government
15 Exhibit 6, please. Thank you, Ms. Drescher.

16 If you can just zoom in on the text of this letter.
17 Let's focus on the header, too. Thank you, Ms. Drescher.

18 Q. All right. Who is this email from and who is it to?

19 A. It is from me and it was sent to Dale Shick.

20 Q. Who is Dale Shick?

21 A. He was the area manager of the Buffalo DEA that we reported
22 to.

23 Q. What's the date of this email?

24 A. It is March 28th, 2012.

25 Q. And what's the subject?

M10VDOU2

Pietruszewski - Direct

1 A. Anthony Watson request.

2 Q. Who was Anthony Watson?

3 A. Anthony was a diversion investigator at the Buffalo
4 facility as well.

5 Q. Why did you send this email to Dale Shick?

6 A. They came in and did an audit in 2011. And they wanted to
7 know if we had a suspicious order monitoring. And we ended up
8 sending them the information at their request.

9 Q. Thank you.

10 MS. ROTHMAN: Ms. Drescher, if we can zoom in on the
11 text of the email now.

12 Q. Mr. Pietruszewski, can you read the final two sentences of
13 this letter -- of this email, beginning with "This order is not
14 released."

15 A. This order is not released until RDC receives the proper
16 information from the store. Once RDC has researched this
17 information is when it is determined if the order is released.
18 If the order would not be released due to insufficient
19 information, we then consider this an order of suspicion and
20 will phone the DEA about the order in question.

21 Q. At the time of this email, was RDC still relying on usage
22 data?

23 A. Yes, we were.

24 Q. And as, I think, you testified, RDC would at times release
25 orders without even having usage data; is that right?

M10VDOU2

Pietruszewski - Direct

1 A. That is true.

2 Q. I want to look at where you write in this email "once RDC
3 has researched this information is when it is determined if the
4 order is released." What did you mean by "research"?

5 A. That we received the usage information; that we added up,
6 tabulated, the amount that they purchased; and then -- I mean,
7 that's what we meant by that.

8 Q. And then the last sentence, when you write: If the order
9 would not be released due to insufficient information, we then
10 consider this an order of suspicion and will phone the DEA
11 about the order in question.

12 Was that the truth?

13 A. We didn't do that, no.

14 Q. Did RDC report suspicious orders to the DEA?

15 A. No, we did not.

16 Q. Did RDC report suspicious customers to the DEA?

17 A. No, very few.

18 Q. Why not?

19 A. Because RDC did not do that. Larry did not want to report
20 our customers.

21 Q. Thank you.

22 MS. ROTHMAN: We can take this email down.

23 Thank you, Ms. Drescher.

24 Q. Now, over time, did RDC start collecting information other
25 than usage data from its customers?

M10VDOU2

Pietruszewski - Direct

1 A. Yes, we did.

2 Q. What type of information did RDC collect?

3 A. We started collecting dispensing information.

4 Q. What type of information was included in dispensing
5 information?

6 A. The dispensing information, we generally would ask for 30
7 or 90-day dispensing; and that would include the prescription
8 drug in question, the NDC, the strength, how many tablets of
9 the drug were dispensed, the doctor's name, the doctor's DEA
10 number, and also how many days a prescription was for, and as
11 well as the customer's ZIP code.

12 Q. Now, under the written policies of RDC's suspicious order
13 monitoring program, what was RDC supposed to do with that
14 dispensing data before releasing an order of interest?

15 A. We should analyze the information.

16 Q. Did RDC do that?

17 A. No, we did not.

18 Q. Were there times RDC released orders of interest without
19 even having dispensing data?

20 A. Yes.

21 Q. Why did RDC do that?

22 A. RDC was told to by Larry Doud.

23 Q. Now, the suspicious order monitoring program for RDC had
24 limits for each customer; correct?

25 A. Yes, each customer would have been different.

M10VDOU2

Pietruszewski - Direct

1 Q. Were there certain customers that frequently hit those
2 order limits?

3 A. Yes, there was.

4 Q. And in those situations -- withdrawn.

5 In those situations, typically, what would RDC do?

6 A. We would release the orders.

7 Q. Were there times that you would raise a pharmacy customer's
8 order limits?

9 A. Yes.

10 Q. Why would you do that?

11 A. So the customer could get its order.

12 Q. And what, if any, impact did RDC increasing order limits
13 have on the amount of controlled substances that a particular
14 pharmacy could purchase?

15 A. It would create more diversion.

16 Q. Did you ever discuss releasing orders of interest with
17 Mr. Doud?

18 A. Yes.

19 Q. If you held an order of interest, would you have let
20 Mr. Doud know?

21 A. Yes.

22 Q. Why would you do that?

23 A. To try to beat the salesman to getting a hold of Larry or
24 to Joe Brennan, because I would want them -- I'd want him to
25 know if I could before that.

M10VDOU2

Pietruszewski - Direct

1 Q. Did you ever get in trouble with Mr. Doud for holding an
2 order of interest?

3 A. Yes.

4 Q. What happened?

5 A. He wanted an order to go out to a customer, and we ended up
6 filling it early in the morning. And we ended up sending out
7 the maintenance person to meet the salesman at, like, a halfway
8 point. And then the salesman ended up delivering the order to
9 the customer.

10 Q. Now, were there occasions when RDC did not release orders
11 of interest that had been flagged by its suspicious order
12 monitoring system?

13 A. Yes.

14 Q. Did RDC report those orders to the DEA?

15 A. No, we did not.

16 Q. Why not?

17 A. Because Larry did not want us to report our pharmacies.

18 Q. Now, between 2012 and 2016, did RDC report a small number
19 of suspicious orders to the DEA?

20 A. I believe it was about four orders.

21 MS. ROTHMAN: Ms. Drescher, can you please pull up
22 what's in evidence as Government Exhibit 262.

23 Q. Do you recognize this document?

24 A. Yes.

25 Q. What information is contained in this document?

M10VDOU2

Pietruszewski - Direct

1 A. Four stores that were reported for suspicious orders.

2 Q. Between 2012 and 2016, how many controlled substance orders
3 did RDC fill for its customers?

4 A. Probably thousands.

5 Q. Between 2012 and 2016, how many pharmacy customers did RDC
6 have?

7 A. Probably about 1500 customers.

8 Q. Between 2012 and 2016, how many orders were flagged by
9 RDC's suspicious order monitoring system?

10 A. Probably a couple thousand orders.

11 Q. How many did RDC report?

12 A. Four.

13 Q. Mr. Pietruszewski, did you investigate the thousands of --
14 withdrawn.

15 Did you investigate the thousands of orders of
16 interest that were flagged by the suspicious order monitoring
17 system to determine whether or not they were suspicious?

18 A. No.

19 Q. In most instances, what did you do with those orders of
20 interest?

21 A. They were released.

22 Q. Why did you do that?

23 A. Because a lot of the times those were our orders that
24 customers that we -- repeatedly were spoken to by Larry or Joe
25 and they ended up releasing the orders.

M10VDOU2

Pietruszewski - Direct

1 MS. ROTHMAN: You can take this down.

2 Thank you, Ms. Drescher.

3 Q. Now, during your work at Rochester Drug Co-Operative, did
4 you attend meetings regarding what RDC was supposed to be doing
5 with respect to compliance?

6 A. Yes, I did.

7 Q. Generally, what was discussed at those meetings?

8 A. Red flags or -- of pharmacies, or, you know, maybe, how
9 to -- customers reporting on ARCOS data or maybe showing us
10 pharmacies that were diverting controlled substances.

11 Q. Did Mr. Doud also attend those meetings?

12 A. He did when we had the outside consultants. They would
13 come in in that, yes.

14 Q. During your work at RDC, did you receive emails regarding
15 what RDC was supposed to be doing with respect to compliance?

16 A. Yes.

17 Q. Was Mr. Doud also on those emails?

18 A. Yes, he was.

19 Q. Would you at times forward emails to Mr. Doud?

20 A. Yes, I would.

21 Q. During your time at Rochester Drug Co-Operative, did you
22 attend presentations by outside professionals regarding
23 compliance at RDC?

24 A. Yes, I did.

25 Q. Can you give a few examples of different presentations,

M10VDOU2

Pietruszewski - Direct

1 conferences, you would attend?

2 A. Sure. I think it was in 2012, we went to Buzzeo
3 conference. In 2015 -- or 2013, there was one in HDMA
4 conference. Then we would also go to conferences occasionally
5 that the DEA had that were free to learn information.

6 MS. ROTHMAN: If we can pull up what's in evidence as
7 Government Exhibit 8. Thank you, Ms. Drescher.

8 All right. We can zoom in on the top email that ends
9 with "Bill." Thank you.

10 Q. Do you recognize this document?

11 A. Yes.

12 Q. Who is the email from and who is it to?

13 A. It is from myself.

14 Q. Who is it to?

15 A. To Larry Doud.

16 Q. What is the date of the email?

17 A. April 20th, 2012.

18 Q. What's the subject?

19 A. "Out of the office."

20 Q. Why is the subject of your email "out of the office"?

21 A. Because I was out of the office attending the conference
22 and I was just responding.

23 Q. Can you read the body of your email to Mr. Doud, beginning
24 with "We did learn a lot."

25 A. Sure.

M10VDOU2

Pietruszewski - Direct

1 We did learn a lot, but we have even more questions.
2 I am sure you will be speaking to Richie, but maybe next sales
3 meeting Richie and I could speak with you about our findings.
4 I feel we have a good system, but hearing more due diligent
5 that wholesalers need to do, I feel strongly we need to do more
6 work. For example, they said that everyone conducts yearly
7 inventory counts, so you do complete yearly store reviews at
8 the locations? They feel if you get usage from an account,
9 then you should get it each year moving forward. They feel the
10 customer could have lost half of their business and a
11 wholesaler could still be sending 40,000 units of Oxycontin
12 each of the last two years, which would not be good on our
13 part. They also mentioned if a store cannot supply you with
14 the information you want or it may feel they are receiving too
15 much product, you should call the DEA and you should no longer
16 do business with that customer.

17 Q. Let me stop you right there for a moment,
18 Mr. Pietruszewski.

19 MS. ROTHMAN: If we can just highlight that last
20 sentence: If a store cannot supply you with the information
21 you want or if you feel they are receiving too much product,
22 you should call the DEA and you should no longer do business
23 with that customer.

24 Q. Did RDC follow the DEA's instruction to call the DEA and no
25 longer do business with customers that would not provide

M10VDOU2

Pietruszewski - Direct

1 information requested?

2 A. No, we did not.

3 Q. Can you also read the sentence at the bottom of the email
4 that begins "Also," Mr. Pietruszewski.

5 A. Also, we need to practice the same procedures for all
6 customers. There should be no special circumstances the DEA
7 says, because they would use it against you.

8 Q. Mr. Pietruszewski, did RDC treat different customers
9 differently with respect to compliance?

10 A. Yes.

11 Q. Were there certain types of customers that RDC treated more
12 favorably?

13 A. Yes, at times.

14 Q. Can you give an example?

15 A. It seemed the stockholders of the company.

16 Q. What would RDC do with respect to stockholders?

17 A. Just be more lenient. Let orders -- release the orders, or
18 maybe if we didn't have the dispensing, we still would release
19 the orders of the customers.

20 MS. ROTHMAN: Thank you. We can take this email down.

21 Ms. Drescher, can you please pull up what's in
22 evidence as Government Exhibit 14. Just zoom in on the top
23 email. Thank you.

24 Q. All right, Mr. Pietruszewski. Who's this email from and
25 who is it to?

M10VDOU2

Pietruszewski - Direct

1 A. It is from myself; and I sent it to Larry Doud, Joe
2 Brennan, Lanny Doud, and Richie Cullen.

3 Q. What's the date of the email?

4 A. January 31st, 2013.

5 Q. What's the subject?

6 A. RX news. South Philadelphia doctor to be sentenced for
7 running a pill mill.

8 Q. Can you please read the body of the email that you sent to
9 Mr. Doud and others.

10 A. Sure.

11 Carlos sent some light reading to me, and I thought
12 you would like to see what was said in this article. I would
13 like to point out the DEA is saying that wholesalers are
14 obligated to self-police, along with everything else.

15 Q. Mr. Pietruszewski, did RDC self-police as directed --
16 withdrawn. Did RDC self-police its customers as directed by
17 the DEA?

18 A. No, we did not.

19 Q. Why not?

20 A. Because that's not what Larry Doud wanted us to do.

21 MS. ROTHMAN: We can take that down. Thank you.

22 Q. I want to pause for a moment and talk about the DEA
23 inspection of RDC in July of 2013. Do you remember that event?

24 A. I do, yes.

25 Q. Were you present for the inspection?

M10VDOU2

Pietruszewski - Direct

1 A. I was not for the first day.

2 Q. Were you there for the second day?

3 A. I was.

4 Q. Where were you the first day?

5 A. I was camping, Cub Scouts with my youngest son.

6 Q. How did you learn that the DEA was at RDC?

7 A. I received a phone call from the camp that I had a call.

8 Q. And who had called you?

9 A. It was Joe Brennan.

10 Q. What, if anything, did Joe Brennan say?

11 A. Just said that the DEA were at the office and they needed
12 me to come back.

13 Q. Did you go back?

14 A. Yes, I was there the next morning.

15 MS. ROTHMAN: We can pull up what's in evidence as
16 Government Exhibit 20, please. Thank you, Ms. Drescher. We
17 can zoom in on the bottom email to start.

18 Q. All right. If we can read, Mr. Pietruszewski, the email
19 from Joe Brennan to you on July 30th, 2013.

20 A. Sure.

21 Bill, Debbie and Bill want to see our SOPs. Number
22 one, good faith; two, detecting orders of interest/suspicious
23 orders; three, how we adjust the purchase ceiling either up or
24 down on controls; four, SOP for the flags used to adjust the
25 aggregate totals when a customer exceeds their limit on

M10VDOU2

Pietruszewski - Direct

1 oxycodone in a 30-day period, i.e., prevent the store from
2 ordering Oxys until documentation is given, etc.

3 Q. And can you read Mr. Doud's response?

4 A. Yes.

5 Bill, are you around to help? Sounds like we may have
6 some problems.

7 Q. And Mr. Pietruszewski, these microphones are a little
8 tricky; so it might make sense to take an inch or so back from
9 the microphone.

10 A. Is that better? This is okay?

11 Q. Yes.

12 A. Apologize.

13 Q. That's okay. Thank you.

14 All right. So if the DEA had asked for RDC's SOPs,
15 would RDC have given them to the DEA?

16 A. Yes.

17 MR. GOTTLIEB: Objection, your Honor.

18 THE COURT: I'm sorry. You object?

19 MR. GOTTLIEB: The question if something happened,
20 would RDC do something. It's highly speculative. He's not in
21 a position to know at that time.

22 THE COURT: I'll sustain as to the form of the
23 question. I'm not sure that there's a genuine dispute about
24 that.

25 MS. ROTHMAN: I think that's right.

M10VDOU2

Pietruszewski - Direct

1 Q. Let me ask you a few questions, Mr. Pietruszewski.

2 In Mr. Brennan's email to you, who does Debbie and
3 Bill refer to?

4 A. Debbie was a DEA diversion investigator in Buffalo; and so
5 was Bill Kane a diversion investigator from Buffalo DEA.

6 Q. So when Mr. Brennan wrote: Bill, Debbie and Bill want to
7 see our SOPs, and number two is suspicious orders, what did you
8 understand Mr. Brennan to be emailing you about?

9 A. That they would like to see our policies.

10 Q. Thank you.

11 Now, Mr. Pietruszewski, separate and apart from RDC's
12 suspicious order policies, do you recall an issue with ARCOS
13 data coming up at the July 2013 inspection?

14 A. Yes, I did.

15 Q. What was the issue?

16 A. DEA came in and they were saying that RDC was not reporting
17 CSOS purchase orders, and also CSOS customer sale orders.

18 Q. Did RDC fix its ARCOS issue immediately after the July 2013
19 inspection?

20 A. No, we did not.

21 Q. What ultimately happened?

22 A. We ended up fixing the problem, and eventually RDC ended up
23 paying a fine.

24 Q. To the DEA?

25 A. Yes. Sorry.

M10VDOU2

Pietruszewski - Direct

1 MS. ROTHMAN: We can take down Government Exhibit 20
2 and pull up for the witness what's in evidence as Government
3 Exhibit 12.

4 Q. All right. Do you recognize this document?

5 A. Yes.

6 Q. Who is the email from, who is it to, and what's the date?

7 A. It is from myself to Lorraine Perotta, and it is January
8 9th, 2013.

9 Q. This is about six months before the DEA inspection of RDC
10 in the summer?

11 A. Yes.

12 Q. Who was Lorraine Perotta?

13 A. She worked for Ascend Labs compliance.

14 Q. Was that a manufacturer?

15 A. Yes, it was. Sorry.

16 MS. ROTHMAN: I want to focus on page 2 of this
17 exhibit. We can just zoom in on this caption for a moment.

18 Q. Can you read the title.

19 A. Overview of suspicious order monitoring of RDC.

20 Q. What was this document?

21 A. It explained how our program would work.

22 Q. If you look in the first paragraph, there's a reference to
23 a multiplier. So at this time what was the multiplier that RDC
24 used for narcotics?

25 A. We used a multiplier of three.

M10VDOU2

Pietruszewski - Direct

1 Q. Did there come a time when RDC reduced its multiplier?

2 A. Yes, there was.

3 Q. Remember when that was?

4 A. It was in January of 2017 -- or '15, I'm sorry. Sorry.
5 2015.

6 Q. And did RDC start reporting suspicious orders to the DEA
7 once it had dropped its multiplier?

8 A. No, we did not.

9 MS. ROTHMAN: We can go to the bottom of the second
10 page and going into the third page of this exhibit.

11 Q. And I'll ask you to read the sentence that begins, "Once
12 these answers are given," Mr. Pietruszewski.

13 A. Once these answers are given, it would be helpful to
14 determine RDC will allow the order to be filled or still keep
15 order on hold. If RDC files that we have insufficient
16 documentation, we will alert the local DEA office of our
17 findings and see how they would like RDC to proceed.

18 Q. Did RDC follow its written policies with respect to
19 notifying the DEA?

20 A. No, we did not.

21 MS. ROTHMAN: We can take this exhibit down.

22 Thank you.

23 Q. Now, before we move past the July 2013 inspection, do you
24 recall any pharmacy customers of RDC being specifically
25 discussed at that inspection?

M10VDOU2

Pietruszewski - Direct

1 A. Yes.

2 Q. Which pharmacy came up?

3 A. Plainfield Pharmacy.

4 Q. Tell us how it came up at the inspection.

5 A. They just asked -- the DEA agents asked if we supply
6 Plainfield Pharmacy, and we said yes.

7 Q. So after the DEA brought Plainfield Pharmacy to RDC's
8 attention, what did you do?

9 A. We contacted Carlos Aquino and asked if he could go to
10 Plainfield and to do an audit of the pharmacy.

11 Q. Did Mr. Aquino go and do that audit?

12 A. Yes, he did.

13 Q. And what did Mr. Aquino find at the audit?

14 A. He found that the pharmacy was shipping oxycodone 30 to
15 Florida, and they were all like cash prescriptions.

16 Q. Ultimately, what did RDC do with Plainfield Pharmacy?

17 A. We ended up turning them off and reporting them to the DEA.

18 Q. And that was after the DEA had first brought Plainfield to
19 your attention?

20 A. Yes.

21 Q. Now, while we're on the topic of terminations, did RDC
22 sometimes resume selling to pharmacy customers after turning
23 them off?

24 A. Yes, we did.

25 Q. Do you recall a pharmacy named AJ Family Pharmacy?

M10VDOU2

Pietruszewski - Direct

1 A. Yes.

2 Q. What do you remember about that pharmacy?

3 A. The -- we saw that the pharmacy filled prescriptions for a
4 doctor-headed -- but it was a nurse practitioner with the same
5 last name different, first name, I believe. And we reported it
6 to the DEA.

7 Q. What did RDC do after that?

8 A. We didn't get a hold of the DEA. I sent a letter or a
9 email to Dale Shick. And I also reported it to the BNE in
10 Albany.

11 Q. And after you notified the DEA, did you send anyone in to
12 look at AJ Pharmacy?

13 A. Yes, we sent Carlos in.

14 Q. What happened after that?

15 A. He did his audit review and we ended up turning on the
16 pharmacy again.

17 Q. So after turning them off and telling the DEA, RDC turned
18 them back on for controls; is that right?

19 A. Yes.

20 Q. Did the pharmacy continue to have problems after RDC turned
21 them back on?

22 A. They ended up having problems, yes.

23 Q. What types of problems?

24 A. They were filling for cash prescriptions, and they -- we
25 saw that points Julius went to the pharmacy.

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Pietruszewski - Direct

1 Q. And did RDC later turn them off again?

2 A. Yes.

3 Q. Now, did RDC turn off all of its pharmacy stores that had
4 problems?

5 A. No, we did not.

6 Q. Thinking back to your time at RDC, did RDC -- with respect
7 to stores that had problems, did RDC turn off more stores or
8 keep on more stores for controls?

9 A. We probably kept more stores on.

10 Q. All right. Now, we've been talking about compliance; but I
11 want to talk for a bit about management at RDC.

12 Who did you consider management with respect to
13 compliance issues at the company?

14 A. That would be Larry Doud and Joe Brennan.

15 Q. Were you part of management?

16 A. No.

17 Q. Now, did you need Mr. Doud's approval to go to a DEA or
18 compliance conference?

19 A. Yes.

20 Q. Would you ask him for permission?

21 A. Yes, I would.

22 Q. What, if anything, would you offer to Mr. Doud to make it
23 more likely that he would approve?

24 A. You know, that instead of flying, that we would, you know,
25 drive to the conference to save some money.

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Pietruszewski - Direct

1 Q. Why would you make those offers?

2 A. Because Larry felt that it was a waste of money.

3 Q. Would management get involved in orders of interest that
4 were held by compliance?

5 A. Yes.

6 Q. What would happen?

7 A. We would either get a call from Larry or Joe or possibly an
8 email or even a text asking, you know, what are we doing about
9 it.

10 Q. And then what would happen?

11 A. We had released the orders.

12 Q. If you wanted to terminate controls to a particular
13 customer, did you need Mr. Doud's approval?

14 A. Yes.

15 Q. Would you speak with Mr. Doud about those decisions?

16 A. Yes.

17 Q. From those conversations with Mr. Doud, what was your
18 understanding as to how Mr. Doud felt about turning off stores?

19 A. He didn't care to turn off stores because that would affect
20 the sales of RDC.

21 Q. If you were going to report a customer to the DEA, did you
22 need Mr. Doud's approval?

23 A. Yes.

24 Q. Did RDC report its customers to the DEA?

25 A. No, we did not.

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Pietruszewski - Direct

1 Q. Let's look at a few examples.

2 MS. ROTHMAN: Ms. Drescher, can you please pull up
3 what's in evidence as Government Exhibit 17.

4 All right. We can just zoom in on the caption to
5 start. Thank you.

6 Q. All right. I'm going to ask you about the full chain; but,
7 generally, who is this email between? Who is this email chain
8 between?

9 A. It is between myself and Larry Doud.

10 Q. What's the subject?

11 A. Distributor briefing.

12 Q. What is this email chain about, Mr. Pietruszewski?

13 A. What that is is actually the DEA wanted to do a briefing to
14 wholesalers and manufacturers to learn -- know your customers.

15 Q. So let's go to the bottom of the email. And I'm going to
16 ask you to -- thank you. Go to the bottom of the chain, and
17 just zooming in on that first bottom email. I want to ask you
18 to read this email, but who's it from?

19 A. It's from Levin, Leonard.

20 Q. Is he with the DEA?

21 A. Yes, he is.

22 Q. What is he informing you of?

23 A. About coming to -- down to Washington for a briefing,
24 distributor briefing.

25 Q. Okay. We can zoom out and go to your email. Thank you.

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Pietruszewski - Direct

1 And who did you forward Mr. Levin's email to?

2 A. I forwarded the email to Larry and Joe.

3 Q. Why did you forward it to Larry and Joe?

4 A. To let them know that the DEA reached out to us, and that
5 they would like to speak to us.

6 Q. Now, I want to go through the emails that you exchanged
7 with Mr. Doud. I'm going to read Mr. Doud's emails, and I'm
8 going to ask you to read your emails in response.

9 So starting with May 2nd, 2013, Mr. Doud writes:

10 Geez, they are demanding. We come there and we are number 100?
11 Who all are they talking to? Annual meeting is June 18th.

12 You can look at your response. You can read that,
13 Mr. Pietruszewski.

14 A. Larry, I need to do inventory first thing in the morning.
15 If you have five to ten minutes, I can give you better details
16 about it, if you like. Have a nice evening.

17 Q. We can go up. We can skip Mr. Brennan's email. Thank you.

18 And what do you say to Mr. Doud and Mr. Brennan?

19 A. Would we be open to going on Wednesday the 19th or Thursday
20 the 20th?

21 Q. And then I'll read Mr. Doud's response: Am I needed? If
22 not, go when you wish. If so, those days work.

23 You can read your response to Mr. Doud.

24 A. Sure.

25 Larry, when I spoke to Lenny, he said those who should

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Pietruszewski - Direct

1 attend are the ones that hold responsibility of the DEA
2 functions and authority to make decisions.

3 Q. And continuing up the chain, Mr. Doud writes: About what?

4 If you can read your response.

5 A. Regarding the DEA and placing practices in place to prevent
6 diversion.

7 Q. And then I'll read Mr. Doud's response: Do I make those
8 decisions or do you just do whatever you feel like doing?

9 Now, before we go on, Mr. Pietruszewski, did you
10 understand Mr. Doud to be asking you a serious question here or
11 speaking in jest?

12 A. It wasn't necessary serious about -- about that. I mean he
13 was just sort of, like, you know, he ultimately made the
14 decisions.

15 Q. Let's go up to your response to Mr. Doud. What do you say?

16 A. I consult with you and Joe if we need to make major changes
17 if a policy that would affect our sales.

18 Q. And then Mr. Doud responds: Oh, new policy?

19 And then can you please read your response to
20 Mr. Doud?

21 A. Sure.

22 Larry, if I were to go and they tell me that we must
23 do an due diligence on 100 stores or we have to stop selling to
24 even one store, I would always consult with you first.

25 Q. What did you mean by that, Mr. Pietruszewski?

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Pietruszewski - Direct

1 A. Well, anything that they told us that we had to do, I had
2 to inform Larry before. And it was ultimately his decision
3 what we would do.

4 Q. And let's look at Mr. Doud's response to your email: You
5 are a good man, Bill.

6 What did you understand Mr. Doud to be saying in that
7 final email?

8 MR. GOTTLIEB: Objection, your Honor.

9 THE COURT: Sustained as to that question, the form of
10 that question.

11 Q. Mr. Pietruszewski, when Mr. Doud wrote to you, You are a
12 good man, Bill, what did you understand him to be saying?

13 MR. GOTTLIEB: Objection.

14 THE COURT: Again, I will sustain the objection.

15 MS. ROTHMAN: We can take that down.

16 All right. Let's go to Government Exhibit 24, please.

17 Q. All right. Do you recognize this email?

18 A. Yes.

19 Q. What is it?

20 A. It's an email from Carlos Aquino.

21 Q. And who did he send this email to?

22 A. He sent it to me, Matt Murphy, Don Bilgore, Larry Doud, Joe
23 Brennan, Jessica Pompeo.

24 Q. So I think what makes the most sense is to start at the
25 bottom of the email, so at the second page. We can zoom in on

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Pietruszewski - Direct

1 Carlos's email to you.

2 All right. Can I have you -- I know it's quite
3 lengthy, but can I have you read Mr. Aquino's email,
4 Mr. Pietruszewski?

5 A. Sure.

6 Q. Thank you.

7 A. Bill, it is obvious when you ask for dispensing
8 information, the customer has been placed in the crosshairs of
9 RDC for dispensing controlled substances, and their dispensing
10 information is requested in order for you to do your due
11 diligence as required by RDC internal policies. With these
12 customers, it is essential for them to provide dispensing
13 information. These are my recommendations:

14 One. Have the sales representative communicate
15 directly with the customer that dispensing information is
16 required for the last three full months. For example, if they
17 go there on February 10th, the dispensing period will be from
18 November 1, 2013 to January 31, 2014.

19 Two. After the initial contact by the RDC sales
20 representative or no more than seven days after the customer is
21 officially notified by the RDC representative, the information
22 should be received by your group.

23 Three. The format of the dispensing information
24 should be in an Excel format or an HTML format that can be
25 formatted into an Excel format. It is important for the

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Pietruszewski - Direct

1 customer to fully provide the information.

2 Number four. Customers will tell you that their
3 pharmacy service provider will need to be contacted by them
4 and, in most cases, will ask for an extension. Remember, you
5 gave them seven days, and the most I would allow is an
6 additional three days. It is important that RDC sales
7 representative needs to understand the information is required
8 in order for RDC to determine the legitimacy of their
9 dispensing.

10 Five. Most likely your customer concerns is the
11 dispensing of oxycodone and hydrocodone. After the tenth day,
12 you should suspend any order containing either drug.

13 Q. Let me just stop you there. And I'll let you keep reading,
14 Mr. Pietruszewski, but Mr. Aquino writes: After the tenth day,
15 you should suspend any order containing either drug if RDC
16 didn't have dispensing data.

17 Did RDC follow that practice?

18 A. No, we did not.

19 Q. You can keep reading. Thank you.

20 A. Okay. This is where the DEA due diligence comes into play.
21 Personally, the customer needs to comply with the request. The
22 RDC sales representative should be kept aware of the lack of
23 cooperation. To continue to sell those drugs of concern can
24 come back to hurt RDC. No customer should be excused from
25 providing the information.

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Pietruszewski - Direct

1 I have seen some of the information that has been
2 provided by those selected customers, which makes it hard for
3 you to analyze their information. Their sad excuses were
4 ridiculous. The DEA is very clear that you need to do your
5 part to prevent diversion of controlled substances, and that
6 was clear with the Plainfield Pharmacy investigation. I think
7 those few customers and their sales representative need to
8 be -- to understand their compliance with the DEA regulations.

9 This is what management needs to decide as to what
10 policy to follow when handling those customers who are subjects
11 of your compliance review.

12 Q. Mr. Pietruszewski, did Mr. Doud receive this email?

13 A. Yes, he did.

14 Q. Let's go up to your response.

15 MS. ROTHMAN: Thank you, Ms. Drescher.

16 Q. I'd like to ask you to read your response to Mr. Aquino.

17 A. Sure.

18 Carlos, we could ask ten customers for dispensing
19 information today, and I probably would receive all ten in a
20 different format. I have asked, and I gave all the salesmen
21 how it must be for us, and we still do not receive it in the
22 correct format. It is sad, but true, that my customers still
23 do not want to give this information freely to their
24 wholesaler. So this at times can be challenging for us, but
25 with Jessica on board, I see this will improve. For me to tell

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Pietruszewski - Direct

1 a customer, could be a stockholder, they must respond or supply
2 the information asked within ten days and what we would suspend
3 their orders must be a talk with upper management team.

4 Something of that is not my ultimate decision.

5 Q. When you wrote "upper management team," who were you
6 referring to?

7 A. About Joe Brennan, Larry Doud.

8 Q. And when you said: They must respond or supply the
9 information asked within ten days and that we would suspend
10 their orders must be a talk with upper management team,
11 something of that is not my ultimate decision, what did you
12 mean by that?

13 A. Meaning that it had to come from Larry and Joe if we were
14 to say that, you know, we're not going to ship them anything
15 after ten days.

16 Q. Did you, as the head of compliance, have the authority to
17 tell a customer that if you don't give RDC dispensing data in
18 ten days, we'll cut you off from controls?

19 A. No, I did not.

20 Q. And did RDC generally continue to supply pharmacy customers
21 with controlled substances even if they hadn't provided
22 updating dispensing information?

23 A. Yes.

24 MS. ROTHMAN: We can take this email down.

25 Thank you, Ms. Drescher.

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Pietruszewski - Direct

1 We can pull up what's in evidence as Government
2 Exhibit 52 -- your Honor, I realize we haven't taken a morning
3 break. I'm happy to pause now and take a break.

4 THE COURT: Yes, let's do that. We'll break till 12
5 o'clock. Don't discuss the case, keep an open mind. I'll see
6 you at noon.

7 (Jury not present)

8 THE COURT: All right. We'll take a 15-minute break.

9 MS. ROTHMAN: Your Honor, can the witness step down?

10 THE COURT: Yes.

11 (Witness not present)

12 (Recess)

13 (Continued on next page)

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Pietruszewski - Direct

1 (In open court)

2 THE COURT: You can bring the witness back.

3 (Jury present)

4 THE COURT: You can continue.

5 MS. ROTHMAN: Thank you, your Honor.

6 Ms. Drescher, can you please pull up what's in
7 evidence as Government Exhibit 52. Thank you. If we can zoom
8 in on the top e-mail.

9 Q. Mr. Pietruszewski, who is this e-mail from and who is it
10 to?

11 A. It is from me and it's to Julius Morton, Jessica Pompeo and
12 Richie Cullen.

13 Q. What's the date?

14 A. September 24, 2015.

15 Q. What's the subject?

16 A. The Chemist Shop Pro Compliance denial.

17 Q. Do you remember what was happening with the Chemist Shop
18 and Pro Compliance around that time?

19 A. Yes. They were refusing to let Pro Compliance get the data
20 from their computer system dial.

21 Q. What was Pro Compliance?

22 A. It was a company that we entered a contract with that would
23 do analyzing a 90-day snapshot of all the controlled substances
24 that a store -- would purchase and dispense, I mean, from their
25 pharmacy.

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Pietruszewski - Direct

1 Q. If I can have you read your e-mail to Ms. Pompeo beginning
2 with "yes."

3 A. Okay.

4 Yes, we all agree about Chemist Shop not listening to
5 Julius' suggestions and now that they do not want to allow Pro
6 Compliance is putting compliance in a tough spot. This has ran
7 its course and this must be decided by management on how we
8 proceed. Though, we do not turn in a store unless we can see
9 that they are dispensing to people that are diverting these
10 controlled substances. You do not know this for a fact, so
11 please do not say this loosely. Again, if they were filling
12 illegally prescriptions or mailing to Florida, then we would
13 turn them off and report them to the DEA. If you are to report
14 someone to the DEA due to the high cash, you would have to
15 follow that for all of our customers, but we choose as an
16 independent wholesaler to educate and work with our customer.
17 This is what RDC is all about and I know you know that.

18 Q. You can stop right there. Thank you. Mr. Pietruszewski,
19 just a few questions.

20 In the second sentence when you write "this has ran
21 its course and this must be decided by management on how we
22 proceed," who were you referring to as management?

23 A. Joe Brennan and Larry Doud.

24 Q. What were you saying had to be decided by management?

25 A. If we were going to turn a customer off and report them to

M1o3dou3

Pietruszewski - Direct

1 the DEA.

2 Q. Now, within this e-mail there are a couple of sentences
3 about what RDC does and does not do. Were those your ideas or
4 did they come from somewhere else?

5 A. They, that came from Larry.

6 Q. So, let's look at the bottom sentence which reads, "if you
7 are to report someone to the DEA due to the high cash, you
8 would have to follow that for all our customers, but we choose
9 as an independent wholesaler to educate and work with our
10 customers. This is what RDC is all about and I know you know
11 that."

12 From where did that idea come?

13 A. That came from Larry.

14 Q. Did you see red flags of diversion at RDC's pharmacy
15 customers?

16 A. Yes, we did.

17 Q. Was high cash one of the red flags of diversion?

18 A. Yes, it was.

19 Q. Did you stop shipping controlled substances to pharmacies
20 that displayed red flags of diversion?

21 A. No, we did not.

22 Q. Did you report those pharmacies to the DEA?

23 A. No, we did not.

24 Q. Why not?

25 A. Because that's not what RDC was about. That's not what

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Pietruszewski - Direct

1 Larry wanted us to do.

2 Q. Now, you sent this e-mail to Mr. Morton and Ms. Pompeo and
3 you copied Mr. Cullen.

4 With respect to Mr. Morton and Ms. Pompeo, did they
5 work in the compliance department?

6 A. Yes.

7 Q. Did they and the other folks you mentioned earlier in your
8 testimony in compliance, did they report to you?

9 A. Yes, they did.

10 Q. Did they take directions from you?

11 A. Yes.

12 Q. You directed them to release orders of interest?

13 A. Yes.

14 Q. Did they follow your directions?

15 A. Yes, they did.

16 Q. Did you discuss problems at pharmacy customers with those
17 individuals?

18 A. Yes.

19 MS. ROTHMAN: We can take down Government Exhibit 52.

20 Q. Let me ask you one more question. We can pull it back up.
21 In the last line where you say, "this is what RDC is about and
22 I know you know that" in reference to not reporting customers.
23 Would you have told Ms. Pompeo that RDC doesn't report
24 customers if Mr. Doud hadn't said that to you?

25 A. No.

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Pietruszewski - Direct

1 MS. ROTHMAN: Thank you. We can take that down.

2 Let's pull up what's in evidence as Government Exhibit 106L,
3 please. We can zoom in on the text.

4 Q. Who is this e-mail from and who is it to?

5 A. It is from me and it's to Jessica Pompeo and Julius Morton.

6 Q. What's the date?

7 A. October 21, 2015.

8 Q. What's the subject?

9 A. ProHealth.

10 Q. Can you read the subject -- withdrawn -- the body of your
11 e-mail to Ms. Pompeo?

12 A. Yes.

13 I wanted to send you an e-mail at 6:30 about this but
14 as usual there were too many other fires today. I asked Liz to
15 release the ProHealth narcotic orders last night and here is
16 why. It looks as we have not done a complete analyze of their
17 dispensing report and that we made a decision to stop their
18 orders on a glimpse. Now even though this glimpse looked to be
19 troublesome, we need to look at the complete picture. So I am
20 asking if you can break their dispensing down as soon as
21 possible. This is the sister store of The Chemist Shop, so if
22 we do not do our due diligence and tell management we turned
23 them off, we need the information to back it up. If any
24 questions, please give me a call.

25 Q. Thank you. Just a few questions. What, if any,

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Pietruszewski - Direct

1 relationship was there between RDC and ProHealth?

2 A. I mean, they were a customer, they were a stockholder. I
3 know Joe Brennan was pretty close to the store. He really
4 seemed to admire the owners of the pharmacy. You know, he used
5 to brag about how they had nice cars and they would go out to
6 dinner and enjoy themselves.

7 Q. When you write to Ms. Pompeo, "I asked Liz to release the
8 ProHealth narcotics orders last night and here is why."

9 What orders, what types of orders are you referring
10 to?

11 A. Well, it was -- it must have been a narcotic order that
12 night.

13 Q. Would it be a held order of interest?

14 A. Yes.

15 Q. Then when you write, in the third sentence, "now even
16 though this glimpse looked to be troublesome, we need to look
17 at the complete picture."

18 Now, under RDC's written policies with respect to its
19 suspicious order monitoring program, if an order looked
20 troublesome, what was RDC supposed to do?

21 A. We should have not shipped it, and reported it to the DEA.

22 Q. What had RDC represented to the DEA that it would do?

23 A. That we would report the pharmacy.

24 Q. Is that what you did in this instance, Mr. Pietruszewski?

25 A. No, it was not.

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Pietruszewski - Direct

1 Q. Why did you release the order, why did you direct that the
2 order be released?

3 A. Because, again, it was -- it was -- I know a relationship
4 that Joe had with this customer, and that if we didn't know,
5 have all the facts -- well, I would have to answer to them why
6 they didn't get their order.

7 Q. When you write in the second-to-last sentence, "if we do
8 not do our due diligence and tell management we turned them
9 off, we need the information to back it."

10 What did you mean by that?

11 A. Meaning that we had to -- have all the information, you
12 know, if it was bad doctors or if it was cash prescriptions,
13 that we needed to know that for a fact so we could present it
14 to Joe and Larry.

15 MS. ROTHMAN: Okay. We can take this down.

16 Let's go to Government Exhibit 53, please.

17 MR. GOTTLIEB: Which?

18 MS. ROTHMAN: 53.

19 Q. Are you familiar with this e-mail, Mr. Pietruszewski?

20 A. Yes.

21 Q. Let's look at the captions for a moment. Who is the e-mail
22 from and who is it to?

23 A. Sure. It is from me, and it's to Larry Doud and Richie
24 Cullen.

25 Q. What's the date?

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Pietruszewski - Direct

1 A. October 24, 2015.

2 Q. Can you read the subject.

3 A. Sure. Dispensing needed from Echo Drugs Incorporated
4 account 2965 for held order.

5 Q. Do you recall what happened with an Echo Drugs order in
6 October of 2015?

7 A. Yes.

8 Q. What happened?

9 A. Order came in on Friday, it was held, and the compliance
10 reached out via e-mail for dispensing information from the
11 customer.

12 Q. Who was the owner of Echo Drugs?

13 A. It was -- Lev -- I'm forgetting his last name. I know it
14 was Lev. I have to think about it.

15 Q. Do you remember anything in particular about Lev, any other
16 groups he belonged to?

17 A. Yes, he did. He was the president or the head of the Drug
18 Guild. It was like 120, 150 pharmacies.

19 Q. What did the Drug Guild do, if you know?

20 A. They were all pharmacies, but it was like a -- they would
21 buy together to get, I believe, get a purchasing price from
22 wholesalers.

23 Q. And I want to go to the bottom of the e-mail and work our
24 way to the top. Looking at Amy Skibickyi's e-mail on
25 October 23, 2015. Can you read the first paragraph of that

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Pietruszewski - Direct

1 e-mail, Mr. Pietruszewski?

2 A. Yes.

3 We have an order from Echo Drugs Incorporated in
4 Brooklyn, New York, that went on hold this afternoon for
5 exceeding the allowed amounts based on average ordering and
6 multiplication factors for growth. In order to have the
7 documentation for the release of this order, as well as be
8 proactive regarding high percentage alerts, RDC is requesting
9 updated dispensing from your account in order to prevent any
10 further controlled substance orders from being unnecessarily
11 held. The last dispensing received doesn't provide records
12 needed for this increase.

13 Q. On October 23, 2015, did RDC have the appropriate
14 dispensing information for Echo Drugs?

15 A. No, we did not.

16 Q. Let's go to the e-mails higher up in the chain, and
17 specifically your e-mail the following day to Mr. Doud. You
18 can read your response to Mr. Doud.

19 A. Sure.

20 Larry, I will see that Lev receives his order this
21 weekend. Also moving forward I will ask anyone on compliance
22 whom sends out an request that I am copied. Also, we are to
23 call the store first and request information and then e-mail as
24 a follow up or if we cannot get ahold of our customer. I am
25 not sure if Amy was told by someone to handle it like this or

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Pietruszewski - Direct

1 not, but if the customer would prefer a call or the personal
2 touch. I will speak to Jessica about how this was handled to
3 avoid possible future situations. Thanks, Bill.

4 Q. Mr. Pietruszewski, did you release that order over the
5 weekend?

6 A. I did.

7 Q. Did RDC have updated dispensing data to do so?

8 A. No, we did not.

9 Q. Is that against its written policy to release the order at
10 that time?

11 A. Yes, it is.

12 Q. I want to now just go down in the chain to see what
13 Mr. Doud said before your e-mail.

14 Mr. Doud writes "This could be trouble."

15 And just to go down one more e-mail to see what
16 Mr. Doud is referring to. So, what is this e-mail that
17 Mr. Doud is referring to, Mr. Pietruszewski?

18 A. About the order being held.

19 Q. Who is this e-mail from?

20 A. It's from Amy, from Lev Rifkin, I mean, to Amy and everyone
21 else on e-mail chain.

22 Q. Can you read what Lev Rifkin writes.

23 A. Sure.

24 Hi. On which basis you are holding weekend order.
25 Did you try contacting us previously. Did you make any

M1o3dou3

Pietruszewski - Direct

1 attempts. Why does RDC holds a customer guilty of a crime
2 without committing a crime. What type of company does this,
3 when a patient is in pain do you understand the consequences of
4 a cancer patient. Hello hello. I will hold you guys
5 responsible for patients well being. And I will relate this
6 type of problem issue to all parties at RDC level.

7 Thank you, Lev.

8 Q. We can just zoom out. After Lev sends his e-mail, Mr. Doud
9 responds "This could be trouble"?

10 A. Yes.

11 Q. At that point what do you do, Mr. Pietruszewski?

12 A. I sent out an e-mail to Lev.

13 Q. Did you release the order?

14 A. Yes, I did.

15 MS. ROTHMAN: We can take this down.

16 Q. We haven't yet spoken about the process RDC went through to
17 turn on stores to controlled substances. I want to focus on
18 that process before 2015. Okay?

19 A. Yes.

20 Q. So what was the process like to turn on stores to
21 controlled substances before 2015?

22 A. We would have to request their state license, their DEA
23 license, they would want the three-page survey that was devised
24 in like 2007, and we would also ask for pictures of inside the
25 store and outside the store.

M1o3dou3

Pietruszewski - Direct

1 Q. Did RDC do any due diligence on the pharmacy customer
2 before allowing them to purchase controlled substances at that
3 time?

4 A. No, we did not.

5 Q. Did RDC review past dispensing data before allowing
6 customers to purchase controlled substances?

7 A. No, we did not.

8 Q. I think you mentioned a survey that stores would complete.

9 A. Yes.

10 Q. Would RDC -- withdrawn.

11 Do you recall if there were RDC customers who had not
12 completed their survey, but still were receiving controlled
13 substances?

14 A. Yes.

15 MR. GOTTLIEB: Your Honor, can we clarify what time
16 period the last two or three questions, what time period are
17 you referring, is the government referring to?

18 MS. ROTHMAN: I think my question was focused before
19 2015. But I think the defense will also have
20 cross-examination.

21 THE COURT: Go ahead. You can continue.

22 A. I'm sorry?

23 Q. Mr. Pietruszewski, were there RDC customers who had not
24 completed their customer questionnaire, but were still
25 receiving controlled substances from RDC?

M1o3dou3

Pietruszewski - Direct

1 A. Yes.

2 Q. Now, what, if any, problems or red flags arose with RDC
3 pharmacy customers?

4 A. Well, customers would be ordering more controls and it
5 could have been for cash, or the prescriptions could have been
6 for cash or high amount pill counts. I mean, we had no idea.

7 Q. Did you see any suspicious doctors in the stores you were
8 supplying?

9 A. Yes, we did.

10 Q. Would you speak with Mr. Doud about these issues at
11 pharmacy customers?

12 A. Yes, we would.

13 Q. As a general matter, did RDC stop selling controlled
14 substances to stores that displayed these red flags of
15 diversion?

16 A. No, we did not.

17 Q. Why not?

18 A. Because Larry did not, you know, did not want us to.

19 Q. Let's pull up what's in evidence as Government Exhibit 21.
20 Do you recognize this document?

21 A. Yes.

22 Q. What is it?

23 A. This about control drug comparison. 30 percent -- actually
24 it showed all the pharmacies, but all control drugs versus all
25 the other purchases from the customer.

M1o3dou3

Pietruszewski - Direct

1 Q. Let's break that down. Let's zoom in on the caption to
2 start.

3 Who is the e-mail from and who is it to?

4 A. It is from myself, it's sent to all the salesmen on the
5 sales team, to Lanny Doud, Joe Brennan and Larry Doud.

6 Q. What's the date?

7 A. August 7, 2013.

8 Q. What is the subject?

9 A. It is the customer letter and handouts.

10 Q. I'm going to through the attachments, but can you read the
11 first attachment that's on this page.

12 A. Sure. Copy of control drug comparison 30 percent notes.

13 Q. What did the 30 percent notes refer to, Mr. Pietruszewski?

14 A. They were everything that we were lacking information from
15 the pharmacies, or if we had it all. It would have said it was
16 complete or done.

17 Q. So, what was the purpose of sending out this e-mail to all
18 the salesmen?

19 A. To show them what we were lacking from the stores, and also
20 to show them the percentage of how high the controlled
21 substances were being purchased from their customers that they
22 were selling to.

23 Q. Was there a particular percentage of sales being controlled
24 substances that you were flagging in this e-mail?

25 A. Anything over 30 percent.

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Pietruszewski - Direct

1 Q. As a general matter, did RDC stop supplying pharmacy
2 customers with controlled substances if they had a greater than
3 30 percent sales for controlled substances?

4 A. No, we did not.

5 Q. So let's look at Government Exhibit 21C to start and then
6 we'll go to the Excel spreadsheet.

7 What is this document?

8 A. It's the pharmacy due diligence.

9 Q. Who would you give this document to?

10 A. This would be something that we would give to our
11 pharmacies.

12 Q. I want to focus on the bottom bullet to start. That reads:
13 A Schedule II prescription written for pain should not exceed
14 120 dosage units unless the prescriber provides the necessary
15 information that the patient is being treated for cancer,
16 intractable pain, or is terminally ill.

17 Did RDC continue to supply controlled substances to
18 customers who were filling preparations for more than 120
19 dosage units of Schedule II narcotics?

20 A. Yes, we were.

21 Q. If we can go to the second page and the third bullet. This
22 reads: The pharmacist should determine the field of medicine
23 and board certification of the prescriber to determine that a
24 prescription written for an opioid is written by a physician
25 with board or sub-board certification in a field that would

M1o3dou3

Pietruszewski - Direct

1 permit the prescriber to write such prescription.

2 Did RDC have customers where prescribers who were
3 writing controlled substances were not in the correct field of
4 medicine?

5 A. Yes, we did.

6 Q. If we can go to the third page and zoom in on the first
7 bullet.

8 Cash prescriptions should not exceed 10 percent for
9 all narcotic prescriptions.

10 Did RDC have pharmacy customers who were purchasing --
11 who were selling more than 10 percent of their controlled
12 substances in cash?

13 A. Yes.

14 MS. ROTHMAN: We can take that down. We can now go to
15 Government Exhibit 21E.

16 Q. I think this was the Excel spreadsheet you were referring
17 to, Mr. Pietruszewski. Let's go row by -- or column by column
18 to explain the information. Okay?

19 A. Yes.

20 Q. So, in column B, what information is contained in that?

21 A. The salesman that the store belonged to.

22 Q. Column C?

23 A. That was the customer account number.

24 Q. Column D?

25 A. The customer name.

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Pietruszewski - Direct

1 Q. Column E?

2 A. The total volume of sales through that time period.

3 Q. Column F?

4 A. Control drug sales, just the control drugs.

5 Q. And column G?

6 A. It was the total percentage of control drugs.

7 Q. Some of the pharmacies are in green and some of them are in
8 black. What does the green signify?

9 A. Anything that was green was above 30 percent.

10 Q. Let's just scroll down through this list of pharmacy
11 customers and see the amount of pharmacies that are green.

12 If you can go to sheet 1, the second sheet. What
13 information is contained on this sheet, Mr. Pietruszewski?

14 A. Again, it was the salesman name, the customer account,
15 customer name, the volume of the total volume, the total volume
16 just of control drugs, the percentage of control drugs versus
17 everything else they purchased from us. "Done" was, you know,
18 we had everything that we were requesting from the pharmacy.

19 Then the last column or the last was things that we still
20 needed from that pharmacy.

21 Q. If we can just scroll through, all of the pharmacies on
22 this sheet are green; is that right?

23 A. Yes.

24 Q. These are all of the flagged pharmacies greater than
25 30 percent?

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Pietruszewski - Direct

1 A. Yes.

2 Q. Let me ask you just to look at the column I, so if you can
3 scroll to the top. How many pharmacies appear to have all of
4 their information submitted?

5 A. Probably about four or five.

6 Q. You can scroll down. I think it's about four.

7 Then for the stores that you don't have all of that
8 information, what are you missing from them, Mr. Pietruszewski?

9 A. It's a variety different things. Last three months of
10 usage, top 10 doctors that dispense controls, questions
11 supplied to the owners, the questionnaire, and also pictures of
12 the pharmacies inside and out.

13 Q. Were these stores that hadn't submitted all of their
14 required information still getting controlled substances from
15 Rochester Drug Co-Operative?

16 A. Yes, they were.

17 Q. After this e-mail, did RDC continue to supply pharmacies
18 who had more than 30 percent of their purchases in controlled
19 substances?

20 A. Yes, we did.

21 MS. ROTHMAN: We can take this down.

22 Q. Now, Mr. Pietruszewski, in January 2015, did Rochester Drug
23 Co-Operative get a new due diligence and suspicious order
24 monitoring policy?

25 A. Yes, we did.

M1o3dou3

Pietruszewski - Direct

1 Q. Who drafted it?

2 A. Our attorneys drafted it.

3 MS. ROTHMAN: Ms. Drescher, can you please pull up
4 what's in evidence as Government Exhibit 276, please.

5 Q. Do you recognize this document?

6 A. Yes, I do.

7 Q. What is it?

8 A. That is our new policy that was devised by the attorneys.

9 Q. I'm not going to ask you to read the entire policy. Let me
10 ask you this. Under the new policy, what was required to
11 happen before a store could begin purchasing controlled
12 substances from Rochester Drug Co-Operative?

13 A. We required that we receive the dispensing, and then that
14 the compliance team would have to analyze that dispensing. We
15 asked for 30 days, and if the dispensing came back that it
16 looked good and there was no issues, the customer would be
17 turned on. If there was problems, red flags, we would, you
18 know, we weren't supposed to turn the pharmacy on.

19 Q. Was that a change from old practices?

20 A. Yes, it was.

21 Q. Did Mr. Doud approve of the change?

22 A. Yeah, well they approved of it when I sent this to them for
23 their review.

24 Q. But thereafter, did Mr. Doud approve of the change?

25 A. No, he did not.

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Pietruszewski - Direct

1 Q. Do you recall making a presentation about this new policy
2 to anyone at RDC?

3 A. Yes, I made -- myself and Jessica Pompeo presented this to
4 all the salesmen in the Rochester facility boardroom, and also
5 Larry Doud and Joe Brennan were there as well.

6 Q. When did the meeting take place?

7 A. It was at I believe the end of February.

8 Q. Which year?

9 A. I'm sorry. 2015.

10 Q. Did the meeting go smoothly?

11 A. It seemed to start out to. But then at the end, it did not
12 go well.

13 Q. What happened?

14 A. Larry and Joe were upset with me. Larry was disgusted
15 that, you know, I didn't inform him that, you know, we were
16 going to analyze the stores. And he said that, you know, I'll
17 speak to you about this at a later time.

18 Q. Just to break that down, what had you shared with the
19 salesmen at this meeting in 2015?

20 A. Well, we showed them the whole policy, but we went over
21 there was nine points that was -- that the policy was asking to
22 follow, and we were reviewing that with the sales team.

23 Q. How did Mr. Doud respond when you did that?

24 A. He wasn't happy about it.

25 Q. How did you feel when Mr. Doud spoke to you that way at the

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Pietruszewski - Direct

1 meeting?

2 A. Sort of demoralized. I was doing what I was told to do.

3 And then now I am being scolded for doing what I was told to do
4 and present this to the team that the attorneys had been
5 working on. And, you know, this is supposed to be my peers. I
6 felt, you know, belittled.7 Q. Let's pull up Government Exhibit 43, please. Do you
8 recognize this e-mail?

9 A. Yes.

10 MS. ROTHMAN: I want to go to the bottom of the e-mail
11 chain to start. Little bit up, Ms. Drescher. Thank you. We
12 can zoom in on your e-mail at the bottom.

13 Q. What's the date of this e-mail?

14 A. It is March 10, 2015.

15 Q. Who is the e-mail from?

16 A. It's from me.

17 Q. Who is it to?

18 A. To Larry Doud, Ed Kirker and Joe Brennan.

19 Q. Can you read the subject?

20 A. Sure. HDMA weekly digest, March 10: DEA and FDA
21 relationship should be improved GAO says.22 Q. Can you read your e-mail to Mr. Doud and Mr. Kirker and
23 Mr. Brennan.

24 A. Sure.

25 Good morning. I am requesting that Jessica must go

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Pietruszewski - Direct

1 and either Liz or myself should also go to this DEA conference
2 on April 15-16. It is free, just need to pay for hotel and
3 flight. If I would go, I have no problem with driving. We
4 would save a little money that way. They will cram tons of
5 information our way since it is two days. Please let me know
6 as soon as possible so we can register now before it fills up.

7 Q. Can we go up to Mr. Doud's response to your e-mail. The
8 top of the page, thank you.

9 Can you please read Mr. Doud's response.

10 A. Yes.

11 I'm not in favor and can't believe how much we have
12 stuck in this compliance thing. However, if Joe and Ed feel it
13 is necessary, then go. Remember we don't know if we are wrong
14 or right and there is no return on what we are doing. And
15 Bill, we will have a very serious conversation on your decision
16 to address our sales force with no prior notice to Joe or Lanny
17 or me. We will need to discuss your lack of communications. I
18 thought we had had this discussion before.

19 Q. When Mr. Doud wrote "And Bill, we will have a very serious
20 conversation on your decision to address our sales force with
21 no prior notice to Joe or Lanny or me," what did you understand
22 that to be in reference to?

23 A. With the presentation that Jessica and I did at the end of
24 February of 2015.

25 Q. When Mr. Doud wrote, "I am not in favor and can't believe

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Pietruszewski - Direct

1 how much we have stuck in this compliance thing," what did you
2 understand that to mean?

3 A. Meaning that, again, we're asking to go to this meeting,
4 and that we already spent a lot of money on compliance and now
5 you are asking to spend more.

6 Q. When Mr. Doud wrote "there is no return on what we are
7 doing," what did you understand that to mean?

8 A. Meaning, you go, you are not going to get anything out of
9 it.

10 Q. We can take that down.

11 Now, do you recall meeting with management after the
12 sales meeting when you presented the new policy to the salesmen
13 to discuss changing the RDC's written policy?

14 A. Yes.

15 Q. What do you remember about that meeting?

16 A. I met with Joe Brennan, Richie Cullen, and Lanny Doud, and
17 we went into Richie Cullen's office and Joe spoke to me, saying
18 that, you know, that -- it wasn't right for what I presented
19 and that, you know, I'm handcuffing the salesmen from doing
20 their job. They already have a tough enough job signing on
21 accounts, trying to get new business, and now, you know, you're
22 suggesting that when a customer signs on, they can't buy
23 controlled substances for 30 days. And he also mentioned that
24 it was unhealthy for me for doing this, for my well being. He
25 told me that I needed to write a letter to the attorneys that

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Pietruszewski - Direct

1 drafted this and let them know that we were going to turn
2 pharmacies on prior to reviewing their dispensing. And if I
3 had a problem to send the e-mail, that he would do it, but I
4 would be -- I would benefit if I were to do the e-mail.

5 Q. Did you send e-mail that Mr. Brennan requested?

6 A. Yes, I did.

7 MS. ROTHMAN: Ms. Drescher, can you please pull up
8 what's in evidence as Government Exhibit 44. I want to focus
9 on the bottom e-mail. Just zoom in on that portion. Thank
10 you, Ms. Drescher.

11 Q. Do you recognize this e-mail?

12 A. Yes.

13 Q. What is it?

14 A. It is an e-mail from me and sending an e-mail to Larry
15 Houck and Don Bilgore.

16 Q. Who are Larry Houck and Don Bilgore?

17 A. Larry Houck was the practice that we hired to help with our
18 policies, and Don Bilgore was the RDC attorney for over 40
19 years.

20 Q. Is this the e-mail that Mr. Brennan asked you to send?

21 A. Yes, it is.

22 Q. I am going to ask you to read this e-mail and we'll start
23 with the portion that is zoomed in and continue with the bottom
24 portion of the e-mail as well.

25 A. Okay.

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Pietruszewski - Direct

1 Larry Houck and Don, good day, gentlemen. With
2 speaking to the RDC management team on Tuesday, March 31, 2015,
3 RDC would like to make a few changes to our due diligence and
4 suspicious order monitoring/reporting policies and procedures.
5 I ask that you could look at page two of the new due diligence
6 policy, where it reads prior to selling controlled substances
7 to any customer, RDC must obtain, review and verify the
8 following. We ask for the nine points to be accomplished prior
9 to selling the store controlled substances. We would like to
10 change the policy to state that RDC will require completed
11 account -- completed customer account application, copy of
12 customer valid state professional license, copy of customer
13 valid DEA registration certificate, copy of customer valid
14 state controlled substance license, if applicable, drug
15 dispensing for most recent three months of controlled
16 substances.

17 Q. I'm going to stop you right there. So what is the request
18 to remove from the initial process before turning on stores for
19 controlled substances?

20 A. We removed the RDC compliance doing the analysis of the
21 three months' data within 30 days.

22 Q. If we can go to the final page of the e-mail. I'm going to
23 ask you to read your final paragraph to the attorneys.

24 A. Okay.

25 I know this seems like a lot of changes but RDC wants

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Pietruszewski - Direct

1 to be compliant, but at the same time RDC would like to be
2 reasonable. We currently are going into accounts demanding all
3 this information and we are not even giving our sales team a
4 fighting chance. This is a two way street and we need to be
5 reasonable with our customers. So if possible, I would ask if
6 next week we may have a conference call with you both, Larry
7 and Don, and with RDC management team to discuss how we need to
8 go forward to make these changes. Thank you all for your time
9 and have a great holiday.

10 Q. One question on this. When you wrote "we are not even
11 giving our salesmen a fighting chance," where did you -- where
12 did you get those words from?

13 A. I got that from Joe Brennan.

14 Q. Did you speak, did RDC consult with its attorneys after
15 sending this e-mail?

16 A. We did, yes.

17 Q. Were you invited to the meeting?

18 A. Actually, I was not.

19 Q. Did you attend the meeting?

20 A. I did, yes.

21 Q. How did you wind up at the meeting if you weren't invited?

22 A. My office in Fairfield is right next to the boardroom, and
23 I was like in the hallway, and I saw the attorneys and I just
24 sort of mingled in with them.

25 Q. What was, in general terms, what was the purpose of the

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Pietruszewski - Direct

1 meeting?

2 A. To discuss the change of our policy, to not have us do the
3 30 days of analyzing the customer.4 Q. At the end of the meeting, was RDC's written policy going
5 to be changed?

6 A. No, it was not.

7 Q. In practice, after that meeting, did RDC change the way it
8 opened accounts?

9 A. No, not -- no, we did not.

10 Q. I think my question was unclear.

11 Did the topic of turning on accounts without reviewing
12 dispensing data first come up again at RDC?

13 A. Yes, it did.

14 Q. Did RDC in fact start turning on accounts without reviewing
15 dispensing data first?

16 A. Yes, we did.

17 Q. Was RDC's policy changed, written policy changed?

18 A. No, it was not.

19 MS. ROTHMAN: Your Honor, now might be a time to take
20 a lunch break.21 THE COURT: Your lunch is here, ladies and gentlemen.
22 Don't discuss the case, keep an open mind. We'll continue in
23 one hour. At 1:55.

24 (Jury excused)

25 THE COURT: You can step down. We'll continue at

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Pietruszewski - Direct

1 1:55.

2 MS. ROTHMAN: Thank you, your Honor.

3 (Recess)

4 (Continued on next page)

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M10VDOU4

Pietruszewski - Direct

1 A F T E R N O O N S E S S I O N

2 2:00 P.M.

3 THE COURT: We'll get the jury. Bring in the jury.

4 (Jury present)

5 THE COURT: You can continue, Ms. Rothman.

6 MS. ROTHMAN: Thank you, your Honor.

7 BY MS. ROTHMAN:

8 Q. Before we stopped for lunch, we were speaking about RDC's
9 meeting with attorneys where it was decided that RDC's written
10 policies regarding analyzing dispensing data before turning on
11 new accounts wasn't going to change. Do you remember that?

12 A. Yes, I do.

13 Q. And I asked you if following that meeting, RDC began
14 turning on accounts for controlled substances before analyzing
15 dispensing, right?

16 A. Yes.

17 Q. Let's look at a few examples of that, Mr. Pietruszewski.

18 MS. ROTHMAN: Ms. Drescher, can you please pull up
19 what's in evidence as Government Exhibit 50.

20 Q. And do you recognize this document?

21 A. Yes.

22 Q. I want to go to the bottom of the email. Focusing on the
23 email from Scott Behanna to Lanny Doud, Mr. Pietruszewski, who
24 is Scott Behanna?

25 A. He was a salesman for Rochester Drug.

M10VDOU4

Pietruszewski - Direct

1 Q. What's the subject of this email?

2 A. Pleasant Hills Apothecary.

3 Q. Was that a pharmacy of RDC?

4 A. Yes.

5 Q. I'm going to ask you to read Mr. Behanna's email to Lanny
6 Doud.

7 A. Okay.

8 Lanny, I wanted you to be aware that I am on the verge
9 of losing this account only a few months after opening it
10 because I can't get an answer from compliance on whether we
11 will let him buy controls and set up CSOS. I told Kevin, the
12 owner, we couldn't do anything until we had usage,
13 questionnaires, etc. He said okay and says he would buy some
14 other stuff and, if things worked out, he would move forward.
15 I told him the best way would be for Jessica to contact RX-30
16 to get what we needed. He agreed and stopped buying secondary
17 from Kinray. That was two weeks ago, and he's ready to go back
18 to Kinray. Kevin said he didn't want to leave Value; so my
19 plan was to move Kinray out, which happened, and I started
20 eating away at Value. I had a feeling that was about to happen
21 until hitting this roadblock. I'm not blaming anyone, and
22 maybe his usage will be questionable, but the process is
23 frustrating. Sorry for rambling.

24 Q. What's the date of this email?

25 A. July 22nd, 2015.

M10VDOU4

Pietruszewski - Direct

1 Q. I want to look at Mr. Doud's response to this email on the
2 previous page.

3 MS. ROTHMAN: A little higher up, Ms. Drescher. Thank
4 you. If we can just zoom in on Mr. Doud's response.

5 Q. Can you read what Mr. Doud wrote.

6 A. Sure.

7 Let's see if we can open him right away. I was
8 thinking we could mark accounts probationary until the work is
9 done, then remove. Some sort of limit. If you remember, Joe,
10 Don said Anda just stopped shipping mid month with no warning.

11 Q. If we can look at your response to Mr. Doud. Can you read
12 that paragraph, please.

13 A. Sure.

14 Larry, we are good if we make a change to the process.
15 I would ask, to be safe, if we could have Mr. Bilgore make the
16 change to our SOP stating the updated process. Jessica and I
17 have been filling out manufacture due diligence request, that
18 we have included our process for turning on customers after we
19 analyze the dispensing. We also shared our process with the
20 DEA in Newark of how we look at three months of dispensing
21 prior to turning a customer on to controls when we applied for
22 our DEA license in Fairfield. This way it is documented that
23 the DEA cannot come back and ask why we are not following the
24 process we put in place on January 15th, 2015. We can at least
25 show that we changed our process and documented it, but we are

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Pietruszewski - Direct

1 following it.

2 Q. Just a few questions, Mr. Pietruszewski.

3 When you wrote to Mr. Doud: We are good if we make a
4 change to the process, what did you mean by that?

5 A. If Larry wanted us to change the process of the compliance,
6 that we -- we'll do it.

7 Q. Why was that?

8 A. Because we did what Larry wanted us to do.

9 Q. Now, at the bottom of the paragraph, you write: We also
10 shared our process with the DEA in Newark of how we look at
11 three-month dispense prior to turning a customer on to controls
12 when we applied for our DEA license for Fairfield. What are
13 you referring to there?

14 A. We had a on-site inspection by the DEA in New Jersey. And
15 one of the things that they asked once they did the site visit
16 was our due diligence policy and that -- which we supplied them
17 with.

18 Q. Did you give the DEA RDC's written due diligence policy at
19 the site visit in 2015 at Fairfield?

20 A. I believe we did, but I know I emailed it.

21 Q. Okay. And let's look at Mr. Doud's response to your email.
22 Can you please read Mr. Doud's response.

23 A. Sure.

24 I will talk to Don on Friday. However, I would like
25 to open the account today and move his info higher in the pile.

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Pietruszewski - Direct

I have no idea if this is a good guy or a bad guy, but I do know that in this case it is taking too long no matter what the problem is. And it could be him and I am sure. Joe has committed to making this a one-week process, and I agree with him. The girls are way too busy, but we won't be adding any more help at this point, so don't ask Bill. We have to find a way.

Q. When Mr. Doud wrote: I would like to open the account today, what did you understand him to mean?

A. Mean that we had to turn the store on today to buy controls.

Q. And when Mr. Doud wrote: The girls are way too busy, but we won't be adding any more help at this point, so don't ask Bill, what did you understand that to mean?

A. That the ladies in compliance were busy doing analyzing; but that I can't bother to ask for more assistance in that department.

Q. Now, following this email, were stores turned on to controls before dispensing data was analyzed?

A. Yes.

Q. And was RDC's written due diligence policy changed at this time?

A. No, it was not.

MS. ROTHRMAN: We can take this down.

Thank you, Ms. Drescher.

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Pietruszewski - Direct

1 Q. Now, do you recall the topic of turning on accounts to
2 controls before reviewing dispensing coming up again in 2016?

3 A. Yes, it did.

4 Q. And who raised it in 2016 again?

5 A. Mr. Doud did.

6 Q. What do you remember about Mr. Doud raising this topic
7 again?

8 A. It was in reference to, I believe, Senate made mention in
9 one of the big newspapers that the DEA got in trouble for
10 not -- I don't know if it was following procedures correctly or
11 what, but his understanding was that the DEA, you know, got in
12 trouble.

13 Q. And so what did Mr. Doud want to do based upon that
14 information?

15 A. He wanted to make sure that stores were open up right away
16 to buy controlled substances.

17 Q. Let's look at Government Exhibit 57.

18 MS. ROTHMAN: Thank you, Ms. Drescher.

19 If we can go down to the bottom of this email. And
20 zoom in on Mr. Doud's email on June 5th, 2016.

21 Q. Can you read that email, please.

22 A. Sure.

23 Folks, based on a recent government change, I want to
24 accelerate our account opening process. As soon as our credit
25 managers completely approve our credit app, we will open an

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Pietruszewski - Direct

1 account right away. We will continue to do our diligence on
2 the controls, but not before we open the account. It is open
3 for discussion.

4 Q. Let's look at your response to Mr. Doud.

5 MS. ROTHMAN: Thank you.

6 A. Hi, Larry. That is a management decision and it's fine
7 with compliance. I only would suggest that Don Bilgore or
8 Larry Hauck change our SOP to state that we did -- we made a
9 change.

10 Q. When you wrote that as a management decision, what did you
11 mean?

12 A. That it was Larry and Joe Brennan's decision.

13 Q. And when you wrote "and is fine with compliance," what did
14 you mean?

15 A. That we didn't have a choice; we had to do what Larry
16 wanted us to.

17 MS. ROTHMAN: We can take that down and go to
18 Government Exhibit 58.

19 Q. Do you recognize this email?

20 A. Yes.

21 MS. ROTHMAN: Let's zoom in on the bottom email.

22 Thank you, Ms. Drescher.

23 Q. Who's the email from and who is it to?

24 A. It is from me; and it's to Jessica Pompeo, Julius Morton,
25 and Liz Cullen.

M10VDOU4

Pietruszewski - Direct

1 Q. What's the date of the email?

2 A. June 8th, 2016.

3 Q. That's about two days after the email we just looked at?

4 A. Yes, that's correct.

5 Q. What's the subject?

6 A. New SOP for turning on pharmacies.

7 Q. I'm going to ask you to read the body of the email,

8 starting with "I was able to speak with Larry."

9 A. I was able to speak with Larry last night, and this is how
10 we would like to proceed on turning new accounts on to
11 controlled substances.

12 We are to receive all compliance paperwork when the
13 account is being set up. We should receive the licenses, RDC
14 questionnaire, pictures of inside/outside of pharmacy, and
15 90-day dispensing in the correct format. If we have that
16 information, the account should be turned on to order
17 controlled substances from RDC as management has requested. If
18 we do not have all the information that was mentioned above, I
19 ask that an email is sent to the salesperson, Richie, if Metro,
20 or to Jay, if in Rochester, and to the compliance, so that
21 everyone is on the same page. I ask that Jessica and Liz turn
22 the store on, and we will keep the chart on the "K" drive as we
23 currently do so we know if the store is on or off.

24 Q. Thank you.

25 So if you can just summarize, what are you telling

M10VDOU4

Pietruszewski - Direct

1 Ms. Pompeo, Julius Morton, and Ms. Cullen in this email?

2 A. Sure. Just that we are going to collect the licenses of
3 the pharmacy, the RDC questionnaire, the pictures of the
4 pharmacy, and the 90-day dispensing in the right format. And
5 once we have that, we are able to turn the store on to buy
6 controlled substances.

7 Q. And whose decision was it to make that change?

8 A. That was Larry's decision.

9 MS. ROTHMAN: Let's go up to the top email.

10 Thank you, Ms. Drescher.

11 Q. Who do you forward your email to the compliance team to?

12 A. I forward it to Larry Doud, Joe Brennan, Richie Cullen.

13 Q. Can you read the subject -- the body of the email.

14 A. Sure.

15 I sent the email to key people in compliance to start
16 the new SOP today. Thank you for your time last night.

17 Q. So why did you forward your email to compliance to
18 Mr. Doud?

19 A. I wanted him to see that I did as he asked me to do.

20 Q. Had the written SOP been changed overnight?

21 A. No, it was not.

22 Q. Now, there's a reference in your email to thank you for
23 your time last night. What is that in reference to?

24 A. I spoke to Larry on the phone just reiterating that I will
25 send out the email.

M10VDOU4

Pietruszewski - Direct

1 MS. ROTHMAN: Your Honor, at this time I'm just going
2 to read a portion from Government Exhibit 1005, a stipulation
3 already in evidence.

4 THE COURT: Yes.

5 MS. ROTHMAN: And that stipulation reads that
6 Government Exhibit 501 consists of an excerpt from a call log
7 from Pietruszewski's iPhone.

8 And Ms. Drescher, can we please publish what's in
9 evidence as Government Exhibit 501 to the jury. And if we can
10 go to the second page and zoom in on line 559. Thank you.

11 BY MS. ROTHMAN:

12 Q. Who is this call to, Mr. Pietruszewski?

13 A. To Larry Doud.

14 Q. What's the date?

15 A. June 7, 2016.

16 Q. Is that the night before you sent the email to the
17 compliance team?

18 A. Yes, it was.

19 Q. And how long was the phone call for?

20 A. Two minutes.

21 MS. ROTHMAN: We can take that down. Thank you.

22 Let's call up Government Exhibit 62, please.

23 Q. Before we look at 62, following that phone call and that
24 email to compliance, did RDC start turning on stores to
25 controlled substances before reviewing dispensing data?

M10VDOU4

Pietruszewski - Direct

1 A. Yes, we did.

2 Q. Was the written policy changed at that time?

3 A. No, it wasn't.

4 Q. Looking at Government Exhibit 62, I want to start at the
5 bottom email. Do you recognize this email?

6 A. Yes.

7 Q. Who is the email -- who do you send this email to?

8 A. I send it to Larry Doud and Joe Brennan.

9 Q. I'm going to ask you to read the body of the email starting
10 with "I asked the three DEA diversion investigators."

11 A. Okay.

12 I asked the three DEA diversion investigators last
13 week about the Senate passed and how that would help RDC. They
14 said that was in the works since 2013. The only thing this law
15 would do is give a wholesaler/distributor one more chance if
16 they are going to lose their license from the DEA.

17 Q. You can read the next two paragraphs as well. Thank you.

18 A. Okay.

19 So, if a pharmacy was selling oxycodone out the back
20 door and we did not report this, if we knew of this, we would
21 be a threat to society. The DEA could pull our license ASAP.
22 With this law, they must work with the wholesaler/distributor,
23 but they would still be subjected to fines and penalties.

24 I suggest that we ask Larry Hauck his professional
25 opinion or thought in regards to changing our due diligence

M10VDOU4

Pietruszewski - Direct

1 SOP. I understand that this is a business decision, but I am
2 just concerned that we will be vulnerable if we do not look at
3 the dispensing before turning a store on to sell controlled
4 substances.

5 Q. Why did you send this email to Mr. Doud and Joe Brennan?

6 A. Because I wanted them to know the interpretation I received
7 from the DEA agents so then they knew what it was that Larry
8 read and Joe read in the paper.

9 Q. Was Mr. Doud receptive to your concerns?

10 A. I don't believe he was, no.

11 Q. Let's look at the top of the email. And just focusing on
12 Mr. Doud's email at the top, how does Mr. Doud respond?

13 A. That is bullshit.

14 MS. ROTHMAN: We can take that down.

15 Let's pull up Government Exhibit 64, please.

16 Q. Looking at the bottom email, can you summarize what you're
17 doing in this email? Withdrawn. Let me ask it better.

18 Who's the email from, Mr. Pietruszewski?

19 A. I'm sorry. It was from myself.

20 Q. And who is it to?

21 A. It's to Dan, Larry Doud, Joe Brennan, Al Emmans, Richie
22 Cullen, Ed Kirker, and myself.

23 Q. What's the date?

24 A. It is July 20th, 2016.

25 Q. What's the subject?

M10VDOU4

Pietruszewski - Direct

1 A. Fairfield DEA audit.

2 Q. I'm going to ask you to read the first sentence of your
3 email.

4 A. Sure.

5 On June 23rd, 2016, we had three DEA investigators
6 arrive at about 10 a.m. to conduct an audit for DEA RR0480676
7 Rochester Drug Co-Operative, Inc., New Jersey.

8 MS. ROTHMAN: And if we can go down to the second page
9 and just zoom in on the bullet that says "DEA requested."

10 Q. And if you can read the zoomed-in text, Mr. Pietruszewski.

11 A. Sure.

12 DEA requested all SOP for due diligence. One agent
13 read the document the first day on due diligence ask of the
14 customers. Second day agent requested three customers' SOPs to
15 see RDC Fairfield follows its SOP.

16 MS. ROTHMAN: We can zoom out and go to the top email.

17 Q. And who do you forward your email to?

18 A. I forward it to Julius Morton and Bill Delgado.

19 Q. And if you can read the body of the email that begins
20 "Please see below."

21 A. Sure.

22 Please see below the audit that we at RDC Fairfield
23 had back June 23rd. I am only about a month behind giving my
24 superiors a snapshot of events for the two days. As you look
25 over my outline, you can see I bring up again that RDC follows

M10VDOU4

Pietruszewski - Direct

1 due diligence SOP to our customers. Again, I am only trying to
2 have reminders to my superiors that we need to follow the SOP
3 as they are written, and I hope that this could spur up
4 conversation on the topic.

5 Q. And when you wrote: I am only trying to have reminders to
6 my superiors that we need to follow the SOP as they are
7 written, what SOP were you referring to?

8 A. To turning on the pharmacies that we should be analyzing
9 the data.

10 MS. ROTHMAN: You can take this down.

11 Thank you, Ms. Drescher.

12 Let's pull up Government Exhibit 66 please. And let's
13 just zoom in on the top email from Mr. Doud.

14 Q. Who's the email from?

15 A. It's from Larry Doud.

16 Q. Who's the email to?

17 A. To myself and to Joe Brennan.

18 Q. What's the date of the email?

19 A. August 30, 2016.

20 Q. What's the subject?

21 A. RDC visit protocol.

22 Q. Can I ask you to read Mr. Doud's email to you.

23 A. Sure.

24 Bill, please do not do anything to hinder the process
25 of this application for VAWD. As you know better than anyone,

M10VDOU4

Pietruszewski - Direct

1 this should have been in place when we opened New Jersey. I am
2 pissed at the BS we deal with on the DEA business now and
3 adverse effects it has had on business over the past three
4 years. I think we spend an incredible amount of attention and
5 money to it, and we can lose our focus on moving RDC ahead.
6 I'll be glad to discuss my disappointments with you and Joe
7 when I return. And Don Bilgore.

8 Q. Mr. Pietruszewski, what is VAWD, V-A-W-D?

9 A. Verification authentication warehouse distributor,
10 something of that nature. I'm not exact that that's precise
11 wording.

12 Q. What needed to happen with VAWD in connection with the
13 Fairfield facility?

14 A. We had to supply SOPs and procedures of all our
15 departments. And I was just stating that, you know, our
16 protocol wasn't updated.

17 MS. ROTHMAN: We can take that down.

18 Q. So now I want to ask you about some certain pharmacy
19 services of Rochester Drug Co-Operative.

20 Do you recall the pharmacy named Aliton's?

21 A. Yes, I do.

22 Q. What do you remember about Aliton's?

23 A. They had, I believe, three locations. And usually all
24 three stores would be on credit hold; and then one would be
25 able to buy. And they would buy their pharmaceuticals. And

M10VDOU4

Pietruszewski - Direct

1 they used to buy oxycodone, and they would be dispensing high
2 amounts of pill counts and for cash.

3 Q. Do you remember a pharmacy named Verree?

4 A. Yes.

5 Q. What do you remember about Verree Pharmacy?

6 A. Verree Pharmacy, they filled a lot of brand Oxycontin
7 manufactured by Purdue. It wasn't the generic, so it was quite
8 expensive. And they were next to a pain -- or not pain clinic,
9 a hospital that did cancer.

10 MS. ROTHMAN: Let's pull up Government Exhibit 105F,
11 please. I want to scroll down to the bottom of this email
12 chain to start.

13 Q. Who's this email from and who is it to?

14 A. It's from Issa Giselle.

15 Q. And who was Giselle Issa?

16 A. She was someone that worked in the compliance for Purdue
17 Pharma.

18 Q. What's the subject of the email?

19 A. Quick question on Verree.

20 Q. What's the date?

21 A. It is June 8th, 2015.

22 Q. Can I ask you to read Ms. Issa's email to you.

23 A. Sure.

24 Bill, I was updating my report, and I saw that in the
25 past you had concerns about Verree oxycodone IR-30 milligrams.

M10VDOU4

Pietruszewski - Direct

1 You stated that in the month of June 2013, out of 35,000 pills,
2 2800 were scripts for 30 milligrams IR. Do you still see the
3 kind of data in the recent months and are you still concerned
4 about the 30 milligram IR of total oxycodone?

5 Q. We can scroll up to Ms. Pompeo's email to you.

6 MS. ROTHMAN: Thank you, Ms. Drescher.

7 Q. What did you ask Ms. Pompeo to do in response to Ms. Issa's
8 email?

9 A. To run a report to see their purchases for the last few
10 months.

11 MS. ROTHMAN: And if we can zoom in on that.

12 Q. Can you read what Ms. Pompeo writes to you.

13 A. She asked if -- does this work?

14 Q. And then at the bottom of her email?

15 A. Their average on Oxy for the past six months is 16,850. So
16 it has gone down. Oxy 30 milligrams, however, is 53 percent of
17 their oxycodone purchase. Their numbers do not include brand
18 name. Let me know if you need them included.

19 Q. Let's look at your response to Ms. Pompeo.

20 Can you please read your response.

21 A. Sure.

22 Funny, I am so far behind in emails, I see you already
23 supplied this. I would not share with Purdue the chart. Tell
24 her that we see a decrease the last few months. Tell her the
25 family, group Oxy family, has decreased by about 4,000 units to

M1OVD04

Pietruszewski - Direct

1 about 31,000. That is all I would share. She does not need to
2 know 53 percent are Oxy, 30 milligrams, Verree.

3 Q. Why did you direct Ms. Pompeo not to include that 53
4 percent of Verree's purchases were Oxy 30s in her email to
5 Purdue?

6 A. I was concerned that they would see that as a red flag and
7 that they may shut off RDC's privileges buying Oxycontin, the
8 brand name from Purdue Pharma.

9 Q. And why didn't you want that to happen?

10 A. Because I know Larry would have been upset at me that we
11 got cut off and wouldn't be able to supply Oxycontin to other
12 pharmacies at RDC.

13 MS. ROTHMAN: We can take that down.

14 Q. Do you recall a pharmacy named Bay Ridge Pharmacy?

15 A. Yes.

16 Q. What do you remember about Bay Ridge?

17 A. They had a high amount of purchasing of oxycodone 30
18 milligrams. They would always hit their limit. They would
19 want more and it was, you know, a lot more than an average
20 pharmacy that RDC supplied.

21 Q. Do you remember the amount of units that Bay Ridge was
22 authorized to purchase?

23 A. It was around 80,000, 82,000 units per month.

24 Q. What was the average amount?

25 A. Average amount for?

M10VDOU4

Pietruszewski - Direct

1 Q. An average pharmacy customer, how much Oxy were they
2 purchasing?

3 A. Maybe about 25,000 units.

4 Q. We spoke a bit about ProHealth, but let me ask you again,
5 Mr. Pietruszewski, do you remember the pharmacy named
6 ProHealth?

7 A. Yes.

8 Q. What do you remember about ProHealth?

9 A. They had doctors that were writing for oxycodone 30. And I
10 believe there was four doctors that were writing for -- 40
11 percent of it was for cash.

12 Q. Do you recall the pharmacy named Seventh Elm?

13 A. Yes, I do.

14 Q. What do you remember about Seventh Elm?

15 A. They were filling prescriptions for Dr. Terdiman, Dr.
16 Verree, and they were usually for cash prescriptions.

17 MS. ROTHMAN: Let's pull up Government Exhibit 109G
18 please. You can just zoom in on the text. The full email is
19 fine. Thank you, Ms. Drescher.

20 Q. Focusing on your top email, who do you send this email to?

21 A. To Jessica Pompeo.

22 Q. What's the date?

23 A. August 27, 2014.

24 Q. What's the subject?

25 A. DEA order of interest alert, customer 3735.

M10VDOU4

Pietruszewski - Direct

1 Q. And which customer is this email in reference to?

2 A. This would have been Seventh Elm.

3 Q. And what do you write to Ms. Pompeo?

4 A. Let's go. I will try and call her tomorrow morning.

5 Q. I think --

6 A. Let it go. I'm sorry. I apologize.

7 Q. And when you wrote "Let it go," what were you referring to?

8 A. I was letting Jessica know that she could release the
9 order.

10 Q. And did RDC have dispensing data for Seventh Elm at this
11 time?

12 A. Not updated dispensing, no.

13 Q. It was releasing the order what RDC should have done under
14 its policy?

15 A. No, it was not.

16 Q. What should RDC have done?

17 A. We should have not released it and we should have asked for
18 updated dispensing. And if we didn't receive it, we should
19 have reported it to the DEA.

20 MS. ROTHMAN: We could take that down.

21 Q. Do you recall the pharmacy named Blairsville?

22 A. Yes, I do.

23 Q. What do you remember about Blairsville?

24 A. Blairsville made a order for a controlled substance; and
25 the store did not receive it. I know Larry was traveling with

M10VDOU4

Pietruszewski - Direct

1 Kevin Taraszewski in that territory. I received a call from
2 Larry about getting it out to the customer.

3 MS. ROTHMAN: Let's pull up Government Exhibit 111E,
4 please. And I want to just focus on an email on the second
5 page from you -- the middle of the page on September 30th,
6 2016, at 8:22 -- little bit lower. Thank you, Ms. Drescher.

7 Q. And can you read what you write?

8 A. Sure.

9 Joe, the order came in at 7:32 p.m. yesterday, and I
10 went into order of interest. I released after Larry got a hold
11 of me this morning. We have a courier picking the tote up to
12 make the delivery today.

13 Q. What's the date of this email?

14 A. It is September 30th, 2016.

15 MS. ROTHMAN: We can take that down.

16 Q. Now, I want to ask you a few questions about Linden Care.

17 Do you remember the pharmacy named Linden Care?

18 A. Yes, I do.

19 Q. What types of products did Linden Care purchase from RDC?

20 A. They purchased a lot of oxycodone 30, purchased a lot of
21 Subsys, Actiq, Alanzia, and there were a lot of other normal
22 pharmaceuticals that they bought a lot of as well that were
23 expensive.

24 Q. What, if any, issues did RDC have in stocking Subsys?

25 A. We started out not having a lot, but Linden Care started

M10VDOU4

Pietruszewski - Direct

1 buying more from us and we had -- I had so much Subsys that I
2 couldn't even keep it in the vault. It was in the cage and
3 outside in the warehouse.

4 Q. What, if anything, did Mr. Doud tell you to do with respect
5 to orders from Linden Care?

6 A. That all their -- anything that they order should be
7 shipped.

8 Q. Did you follow those directions?

9 A. Yes, I did.

10 Q. I want to look at what's been marked for identification as
11 Government Exhibit 108BB.

12 Do you recognize this document?

13 A. Yes, I do.

14 Q. What is it?

15 A. It's email from Larry Doud -- from Larry Doud to me.

16 MS. ROTHMAN: Your Honor, the government offers into
17 evidence Government Exhibit 108BB.

18 THE COURT: Any objection?

19 MR. GOTTLIEB: May I just take one look please?

20 THE COURT: Yes.

21 MR. GOTTLIEB: No objection, your Honor.

22 THE COURT: It will be admitted into evidence.

23 (Government's Exhibit 108BB received in evidence)

24 MS. ROTHMAN: May we publish to the jury?

25 THE COURT: Yes.

M10VDOU4

Pietruszewski - Direct

1 MS. ROTHMAN: Thank you.

2 Q. We're going to look at Mr. Doud's email to you in a moment.
3 But before we do, can you provide a little bit of context on
4 what's going on in this email chain?

5 A. Yes.

6 Larry asked me to send a email to Ed Kirker, Chris
7 Masseth, because they were concerned that Linden Care was
8 buying all of our product from other -- that other customers
9 wouldn't be able to purchase it. So he asked me to threaten
10 them to let them know that -- let Linden Care get what they
11 want.

12 Q. Let's read Mr. Doud's email to you, zooming in on the top
13 email. Thank you. You can go ahead.

14 A. Bill, thanks. You should tell them you think they should
15 check with me before changing anything. Tell them now how
16 aggressive I am towards the account and how I threatened you.
17 Tell them it is not funny and you know that it won't make me
18 happy. I don't care that everyone else says -- what everyone
19 else says.

20 Q. What's the date of the email?

21 A. It is May 1st, 2014.

22 Q. Did you do what Mr. Doud asked you to do?

23 A. Yes, I did.

24 MS. ROTHMAN: Let's look at Government Exhibit 108G,
25 which is in evidence. You can zoom in on the text.

M1OVDU4

Pietruszewski - Direct

1 Q. What's the date of this email?

2 A. May 1st, 2014.

3 Q. The same date as the email we just saw?

4 A. Yes.

5 Q. Who's the email from?

6 A. It is from me.

7 Q. Who's the email to?

8 A. To Ed Kirker and Chris Masseth.

9 Q. What's the subject?

10 A. Linden Care/Bell Health.

11 Q. Can you please read your email to Mr. Kirker and
12 Mr. Masseth.

13 A. Yes.

14 Gentlemen, I thought I would share with you both that
15 Larry Doud and I had a meeting with Inder from Bell Health in
16 regards to Linden Care. Larry wants Linden Care to receive
17 what they want. He I being very aggressive and not to cut
18 anything from their orders. Larry wants our venture to work
19 with Linden Care/Bell Health and if anyone disagrees will need
20 to answer to him. So moving forward, I will not cut from their
21 orders and if you do not agree with me, Larry said to ask him
22 for yourself. Larry threatened me to be on board with this or
23 I may not like the outcome. I thought you both would like to
24 know this.

25 Q. Now, in your email, you write Larry threatened me to be

M10VDOU4

Pietruszewski - Direct

1 onboard. Did Mr. Doud really threaten you?

2 A. No he did not.

3 Q. Why did you write that Mr. Doud had threatened you if he
4 hadn't done that?

5 A. Because he told me to tell them that.

6 MS. ROTHMAN: We can take this down.

7 Q. Now, with respect to Linden Care's orders -- withdrawn.

8 The direction from Mr. Doud that Linden Care would get
9 what they wanted, did that apply to all orders or only a
10 portion of Linden Care's orders?

11 A. That would be with all orders.

12 Q. Would that include controlled substances?

13 A. Yes.

14 Q. Would that include Subsys?

15 A. Yes.

16 Q. All right. Did Linden Care generate orders of interest?

17 A. Yes, they did.

18 Q. Generally, what would you do with those orders of interest?

19 A. I would release them.

20 Q. Why did you do that?

21 A. Because I was told that we released their orders.

22 Q. Let's pull up Government Exhibit 10 which is in evidence.

23 Do you recognize this email?

24 A. Yes.

25 Q. Let's go to the bottom of the email.

M10VDOU4

Pietruszewski - Direct

1 MS. ROTHMAN: A little higher actually.

2 Q. Focusing on your email on April 17, 2012, can you read your
3 email.

4 A. Sure. Guys, this order for Linden Care exceeded their
5 limit. I increased their limit so we could send it tonight.
6 But the order is stuck in the system. I had IT trying to
7 release it, but every time the order was released, it would go
8 back to hold. This order will be released in the morning by
9 the automatic process. But I thought you would like to know.
10 I left Chris a voicemail about this. Also, we should discuss
11 their ordering amounts. They are getting to a point where we
12 may not want to go. I was hoping I will be able to discuss
13 with Joe in the morning.

14 Q. Let's look at Mr. Doud's response to your email. What's
15 the date?

16 A. It is October 17, 2012.

17 Q. And please read Mr. Doud's response?

18 A. Bill, that is not satisfactory. We must get and ship that
19 order tonight. We are in serious jeopardy there. It is a big
20 ant and they have just about had it with us.

21 Q. Let's scroll up to your email in response to Chris. And
22 just focusing on the first paragraph. Thank you.

23 A. With speaking to Larry, it would be in our best interest to
24 get this order to Linden Care. I will fill the order tomorrow
25 at 7 a.m. and should have it ready to go by 8 a.m. We'll have

M10VDOU4

Pietruszewski - Direct

1 frank from RDC take this up to meet Chris at the Delaware gap
2 and Chris, if you could take the rest of the way to the store
3 would be great.

4 Q. Thank you. Mr. Pietruszewski, was it unusual for Mr. Doud
5 to get involved in particular orders?

6 A. No.

7 Q. Was this the only time he got involved in making sure a
8 particular order was shipped?

9 A. No, it was not.

10 Q. All right. I want to talk about Linden Care beginning in
11 2014 and going until 2016.

12 A. Okay.

13 Q. Generally, what happened with Linden Care's purchasing
14 during those years?

15 A. They increased substantially.

16 Q. And did RDC have dispensing data for Linden Care during
17 that time period?

18 A. After 2014, we did not.

19 Q. Why not?

20 A. They had a problem with their system. The robot was not
21 working correctly.

22 Q. Did RDC stop shipping controlled substances to Linden Care
23 when it didn't have the dispensing data?

24 A. No, we still shipped.

25 Q. Did RDC use Pro Compliance with Linden Care?

M10VDOU4

Pietruszewski - Direct

1 A. Yes, we tried.

2 Q. What happened?

3 A. They denied Pro Compliance.

4 Q. When Linden Care refused to allow Pro Compliance to analyze
5 their data, did RDC cut them off?

6 A. No, we did not.

7 Q. And did Pro Compliance later look at RDC's -- withdrawn.

8 Did Pro Compliance later look at Linden Care's data?

9 A. They did eventually, yes.

10 Q. Let's look at what's been marked for identification as
11 Government Exhibit 108AA. Do you recognize this document?

12 A. Yes, I do.

13 Q. What is it?

14 A. It's about off-label use of substances as a painkiller.

15 Q. Is it an email from you to Mr. Doud?

16 A. Sorry. Yes, it is an email from me to Mr. Doud.

17 MS. ROTHMAN: Your Honor, the government offers into
18 evidence Government Exhibit 108AA.

19 THE COURT: Any objection?

20 MR. GOTTLIEB: No objection, your Honor.

21 THE COURT: It will be admitted into evidence.

22 (Government's Exhibit 108AA received in evidence)

23 MS. ROTHMAN: May we publish to the jury?

24 THE COURT: Yes.

25 MS. ROTHMAN: Thank you.

M1OVD04

Pietruszewski - Direct

1 All right. If we can zoom in on the top half of the
2 email, including the caption on the news article.

3 Thank you.

4 Q. So who's this email from?

5 A. It is from me.

6 Q. Who is it to?

7 A. To Larry Doud.

8 Q. What's the date?

9 A. May 14, 2014.

10 Q. What's the subject?

11 A. RX doubts -- RX News Doubts Raised Off-Label Use for
12 Subsys.

13 Q. Can you read your email to Mr. Doud?

14 A. Should we send this to Linden Care?

15 Q. And looking at the bottom email, what's the caption of the
16 news article that you forwarded?

17 A. Doubts Raised About off-label Use of Subsys, A Strong
18 Painkiller.

19 Q. Why did you forward this article to Mr. Doud?

20 A. Because Subsys was Fentanyl and it's being used for more
21 than just helping people with retractive pain or cancer.

22 Q. And why did you ask Mr. Doud if you should send this
23 article to Linden Care?

24 A. So they could see this for theirselves.

25 MS. ROTHMAN: We can take that down and go to

M10VDOU4

Pietruszewski - Direct

1 Government Exhibit 108U please. We can zoom in on the top half
2 again, including the caption.

3 Q. Who's this email from?

4 A. It is from me.

5 Q. Who's it to?

6 A. To Larry Doud.

7 Q. What's the date?

8 A. April 8th, 2015.

9 Q. Can you please read the subject.

10 A. Sure.

11 Nurse practitioner Connecticut surrenders drug
12 license.

13 Q. Can you please read your email to Mr. Doud.

14 A. Sure.

15 Larry, just FYI. Our number one customer was filling
16 Subsys for cash by this nurse practitioner. This was based off
17 old dispensing up to December 2014. I am still waiting for the
18 first quarter of 2015 dispensing. Hopefully, the practitioner
19 is not on there dispensing. Thought you would like to know.

20 Q. When you wrote "Our number one customer was filling Subsys
21 for cash," who were you referring to as your number one
22 customer?

23 A. It was Linden Care Pharmacy.

24 Q. And why did you use that term, "number one customer," to
25 refer to Linden Care?

M10VDOU4

Pietruszewski - Direct

1 A. Because they were our largest customer that we had.

2 Q. Why did you forward this email to Mr. Doud?

3 A. Because I wanted him to know that a nurse practitioner
4 would surrender her license and that, you know, it's possible
5 that she still was writing scripts and we didn't have the
6 dispensing.

7 Q. Would you speak with Mr. Doud about the amount of
8 controlled substances that RDC was selling to Linden Care?

9 A. Yes.

10 Q. Based on those conversations, do you believe that Mr. Doud
11 was aware that Linden Care was RDC's primary purchaser of
12 Subsys?

13 MR. GOTTLIEB: Your Honor, objection.

14 THE COURT: Overruled.

15 You can cross-examine him on this.

16 A. Yes, they were.

17 Q. Based on your conversations with Mr. Doud, do you believe
18 that Mr. Doud was aware of the volume of Subsys that RDC was
19 supplying to Linden Care?

20 A. Yes, he knew.

21 MR. GOTTLIEB: Objection.

22 THE COURT: Overruled.

23 MS. ROTHMAN: We can take that down.

24 Q. Now, moving forward to 2017 or late 2016/2017, was there a
25 time when Mr. Doud became less involved in RDC's business?

M10VDOU4

Pietruszewski - Direct

1 A. Yes. I mean towards the end of 2016/beginning January
2 2017, he was less involved.

3 Q. And did there come a time when you stopped being involved
4 in compliance?

5 A. Yes, I wasn't running compliance in April, I say, of 2017,
6 end of March.

7 Q. Now, I want to go back to your cooperation agreement and
8 your guilty plea, Mr. Pietruszewski.

9 A. Okay.

10 Q. When did you plead guilty?

11 A. April 2019.

12 Q. Why did you plead guilty?

13 A. Because I committed the crimes.

14 Q. Have you been sentenced yet for your crimes?

15 A. Yes.

16 Q. Have you been sentenced yet for your crimes?

17 A. Oh, no, I haven't been sentenced. I'm sorry.

18 Q. Do you know what sentence you'll get?

19 A. No, I do not.

20 Q. What is the most possible jail time you could get as a
21 result of your crimes?

22 A. I could actually get life in prison.

23 Q. Is there a mandatory minimum sentence that applies in your
24 case?

25 A. Yes, ten years.

M10VDOU4

Pietruszewski - Direct

1 Q. What are you required to do under the terms of your
2 cooperation agreement with the government?

3 A. That I have to work with the government, anything
4 pertaining to RDC, and tell the truth and be honest.

5 Q. Are you required to testify?

6 A. Yes.

7 Q. If you do those things, what has the government promised
8 you?

9 A. That they would write a letter.

10 Q. What information goes into that letter?

11 A. Just that I cooperated with the government in a case
12 against RDC.

13 Q. Who gets that letter?

14 A. The judge that will be doing my sentencing.

15 Q. What does that letter allow the judge who's going to
16 sentence you, allow that judge to do?

17 A. He's able to pick whichever sentence he feels is
18 appropriate.

19 Q. Can he go below the mandatory minimum sentence?

20 A. He can, yes.

21 Q. Is the judge required to do that?

22 A. No, he is not.

23 Q. Has anyone promised you a particular sentence or range of
24 sentence in your case?

25 A. No, they have not.

M10VDOU4

Pietruszewski - Cross

1 Q. What sentence do you want to get?

2 A. I'd like to have no time at all.

3 Q. What happens if you don't tell the truth today?

4 A. My agreement is torn up.

5 Q. And if your agreement is torn up, do you get that letter
6 from the government?

7 A. No, I do not.

8 Q. If your agreement is torn up, what is the minimum amount of
9 time you can expect to spend in jail?

10 A. It could be ten years.

11 Q. Does the jury verdict in this case have any effect on
12 whether you receive that letter from the government?

13 A. No, it does not.

14 Q. What is the only thing that matters with respect to your
15 testimony here today?

16 A. That I tell the truth.

17 MS. ROTHMAN: No further questions, your Honor.

18 THE COURT: Cross-examination.

19 MR. GOTTLIEB: Thank you, Judge.

20 CROSS-EXAMINATION

21 BY MR. GOTTLIEB:

22 Q. Mr. Pietruszewski, good afternoon.

23 A. Hi.

24 Q. Mr. Pietruszewski, is it fair to say that during the entire
25 time that you worked at RDC, you wanted to do the best job that

M10VDOU4

Pietruszewski - Cross

1 you could do?

2 A. Yes.

3 Q. Is it fair to say that while you were working at RDC,
4 during the entire time that you told this jury about, can we
5 agree that you certainly didn't want to commit any crimes,
6 right?

7 A. I did not want to commit any crimes, but I did.

8 Q. Can we agree that you failed to abide by the policies of
9 RDC; correct?

10 A. Yes.

11 Q. You didn't file suspicious order reports; correct?

12 A. Correct.

13 Q. There were other aspects of the policy that you did not
14 adhere to; correct?

15 A. Correct.

16 Q. And I believe you told the jury the reason you did that is
17 Larry Doud didn't want you to file the suspicious order
18 reports; correct?

19 A. Correct.

20 Q. And that was the reason why you did or didn't do what you
21 told the jury about, right?

22 A. Yes.

23 Q. There was no other reason why you didn't abide by the
24 written policies; correct?

25 A. That's correct.

M10VDOU4

Pietruszewski - Cross

1 Q. You didn't fail to file suspicious reports because you
2 wanted or intended to have narcotics diverted by pharmacies;
3 correct?

4 A. I didn't want them to be, but they were diverted because we
5 let them go, yes.

6 Q. We're going to get to that, sir.

7 A. Okay.

8 Q. I'm just asking you what you intended and what you wanted
9 to do.

10 A. Okay.

11 Q. You didn't intend -- William Pietruszewski did not intend
12 to divert narcotics; correct?

13 A. Yes.

14 Q. You, you, never intended to have those pharmacies that were
15 ordering oxycodone, Fentanyl, Subsys, you didn't want them or
16 intend to have them divert those medications; correct?

17 A. Yes.

18 (Continued on next page)

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M1O3DOU5

Pietruszewski - Cross

1 Q. You never told Joe Brennan, Jessica Pompeo, that you
2 intended to have these medications put out into the marketplace
3 for non-medical reasons, correct?

4 You never said that to them, did you?

5 A. No, I did not.

6 Q. You certainly never said that to Mr. Doud, that you
7 intended to have these medications sent out into the
8 marketplace for non-medical reasons, correct?

9 A. We ignored red flags, and that's what caused that to get
10 out. We ignored that there was cash that was being -- for
11 pills, there were large amounts of doctors not in the right
12 practice. We, we shouldn't have, we should have reported
13 pharmacies to the DEA.

14 Q. Sir, but for the charges in this case that this jury is
15 going to be asked to consider, is it fair to say that what
16 you're sharing with them is that there were red flags that came
17 to your attention, correct?

18 A. Yes.

19 Q. And those red flags, are you saying that no red flags were
20 ever investigated?

21 A. No, some red flags were investigated.

22 Q. Is it fair to say that you're telling the jury what really
23 was wrong here that you did --

24 A. Yes.

25 Q. -- was that there was an insufficient investigation of red

M1O3DOU5

Pietruszewski - Cross

1 flags, correct?

2 A. Yes, since we didn't have enough help.

3 Q. Right. The real problem was there was insufficient
4 staffing, you told the jury that, in compliance, correct?

5 A. Yes.

6 Q. There was a compliance program. You are not suggesting
7 that there was no compliance program, right?

8 A. There was, yes.

9 Q. And over the years, you would agree that there were many
10 red flags investigated concerning many pharmacies, correct?

11 A. There were probably more that weren't investigated.

12 MR. GOTTLIEB: Your Honor, may we have the witness
13 please just answer the question.

14 THE COURT: You can repeat the question.

15 Q. Is it fair to say that there were many red flags pertaining
16 to many pharmacies that RDC investigated while you were the
17 head of compliance?

18 A. Yes.

19 Q. And one of the key problems, going back to what you
20 mentioned just a moment ago, was that the compliance department
21 you believed was understaffed, correct?

22 A. Yes.

23 Q. You didn't have the personnel to investigate everything,
24 correct?

25 A. That's correct.

M1O3DOU5

Pietruszewski - Cross

1 Q. And these red flags that you picked up, can we agreed that
2 the red flags were a sign that there may have been diversion
3 going on, correct?

4 A. Yes.

5 Q. You didn't know for a fact that there was diversion,
6 correct?

7 A. If there were doctors that were not in the right field of
8 medicine --

9 Q. Can you please just answer the question.

10 Did you know for a fact that there was in fact
11 diversion going on?

12 A. No.

13 Q. And while you discussed and you told the jury while you
14 discussed red flags with Mr. Doud, you would agree that
15 Mr. Doud never said to you, no, I want to divert these opioids
16 for non-medical reasons, correct?

17 MS. ROTHMAN: Objection, hearsay.

18 THE COURT: Overruled. You can answer.

19 Q. He never said that to you, did he?

20 A. No.

21 Q. Is it fair to say with Joe Brennan, who you said was also
22 part of management, he never said to you that he wanted
23 oxycodone, fentanyl, he never said he wanted those medications
24 diverted for non-medical reasons, correct?

25 A. Correct.

M1O3DOU5

Pietruszewski - Cross

1 Q. Without going through everybody, will your answers be the
2 same regarding Jessica Pompeo?

3 A. Yes.

4 Q. And Richie Cullen?

5 A. Yes.

6 Q. And Amy Skibickyi?

7 A. Yes.

8 Q. Now, since you learned of the investigation, I take it that
9 you have met with the prosecutors many times, correct?

10 A. Yes.

11 Q. And in all of your conversations and in all of your
12 meetings, did you tell them the same thing you told this jury;
13 specifically, that you never intended to divert controlled
14 substances for non-medical reasons?

15 MS. ROTHMAN: Objection.

16 THE COURT: Sustained as to the compound nature of the
17 question.

18 Q. Is it fair to say that you never mentioned, told the
19 government prosecutors --

20 MS. ROTHMAN: Objection, vague.

21 MR. GOTTLIEB: I didn't complete the question.

22 THE COURT: Let's shorten the question.

23 Q. You never told the prosecutors that you intended to divert
24 the medications for non-medical reasons, correct?

25 MS. ROTHMAN: Objection.

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Pietruszewski - Cross

1 THE COURT: Overruled. You can answer.

2 A. Could you repeat that?

3 Q. You never told the prosecutors during your meetings, your
4 many conversations, that you ever intended to divert these
5 medications for non-medical reasons, correct?

6 A. Right.

7 Q. And when you shared with the jury that what you did, even
8 in not complying with the written policies, was because that's
9 what Larry Doud wanted, is it fair to say that there was a
10 culture at RDC to work with its customers, correct?

11 A. Yes, there was.

12 Q. There was a culture at RDC to -- in the face of red
13 flags -- to educate the customer about their obligations,
14 correct?

15 A. Yes, there was.

16 Q. There was a culture in dealing with RDC's customers not
17 only to educate them, but to see if you could change anything
18 that they were doing that was wrong, correct?

19 A. Yes.

20 Q. Now, when you were there, doing the best you could as the
21 head of compliance, and that started in what, 2006?

22 A. Yes, about.

23 Q. So, in 2006, your focus was compliance, correct?

24 A. No, it wasn't all compliance.

25 Q. Primarily the focus?

M1O3DOU5

Pietruszewski - Cross

1 A. About 15 hours a week.

2 Q. And so Mr. Doud was the CEO of this entire business,
3 correct?

4 A. Yes, he was.

5 Q. And as the CEO, you understood he had a lot of issues that
6 he had to address day in and day out, correct?

7 MS. ROTHMAN: Objection.

8 THE COURT: Overruled. You can answer.

9 A. I wouldn't know that.

10 Q. You didn't know that the CEO addressed multiple issues not
11 having anything to do with compliance? You didn't know that?

12 A. Maybe he did, but I had multiple issue as well. I headed a
13 lot different departments.

14 Q. Did Mr. Doud travel a lot as CEO?

15 A. Yeah, he traveled, yes.

16 Q. When for the first time did you learn that the government
17 was focusing on you, investigating you?

18 MS. ROTHMAN: Objection.

19 THE COURT: Overruled. You can answer that.

20 A. I believe it was in 2018.

21 Q. And at the time you learned that the government was
22 focusing on you, you retained a lawyer to represent you,
23 correct?

24 A. Yes.

25 Q. In all the meetings and conversations with the government,

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Pietruszewski - Cross

1 your lawyer was involved also, correct?

2 A. Yes.

3 Q. When you first learned of the investigation, you didn't
4 immediately tell the government that you're guilty of all the
5 crimes that you told this jury about, correct? You didn't tell
6 them that immediately, did you?

7 A. No.

8 Q. In fact, after you learned that the government was
9 investigating you, and after you retained a lawyer, you know
10 the lawyer engaged in conversations with the government, which
11 led to the final plea agreement that the government introduced
12 before the jury, right?

13 MS. ROTHMAN: Objection, your Honor.

14 THE COURT: Overruled. He can answer that question.

15 A. I -- yes, it did.

16 Q. Is it fair to say that during this period of time, you
17 learned what you were facing if you were in fact convicted of
18 this conspiracy to distribute narcotics. You learned that you
19 would be facing a minimum of 10 years in prison, correct?

20 A. That is correct.

21 Q. And for lying, the charge, the charge of lying to the
22 government, you learned you could get additional time tacked on
23 to that, correct?

24 A. Yes.

25 Q. And you told the jury you ultimately found out that if you

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Pietruszewski - Cross

1 add everything up, you could face life in prison, correct?

2 A. That's correct.

3 Q. Can we agree that facing this, this information, that was a
4 frightening situation to be in, correct?

5 A. Yes.

6 Q. And I believe before you spoke to the government, and met
7 with the government prosecutors, you signed a proffer
8 agreement. Did you know that?

9 A. Yes.

10 Q. And if we could put up on the board Defendant's 8A for the
11 witness and the attorneys, please.

12 All righty, Mr. Pietruszewski, do you see Defendant's
13 8A?

14 A. I do.

15 Q. You see that?

16 A. Yes.

17 Q. And is that the proffer agreement that you signed and
18 entered into before you spoke to the government prosecutors
19 even the first time?

20 A. I'm not sure. I don't see my signature. I mean, I know I
21 signed a proffer agreement.

22 Q. If we go to the second page, I'm sorry.

23 A. Okay. Yes.

24 Q. Okay. And on the front it indicates that this pertained to
25 a meeting with the prosecutors on May 24, 2018, correct?

M103DOU5

Pietruszewski - Cross

1 A. Yes.

2 Q. And it is signed by you and government prosecutors,
3 correct?

4 A. That's correct.

5 MR. GOTTLIEB: I'd ask that this agreement be received
6 in evidence.

7 THE COURT: Any objection?

8 MS. ROTHMAN: No objection.

9 THE COURT: It will be admitted into evidence.

10 (Defendant's Exhibit A8 received in evidence)

11 MR. GOTTLIEB: May we show it to the jury?

12 THE COURT: Yes.

13 Q. If it's on the screen, this agreement, which you signed
14 before speaking to the government for the first time, is with
15 respect -- if we can look at the first paragraph on top there.
16 Right above that. Beginning with "with respect."17 This is with respect to the meeting between you and
18 Mr. Hughes, your lawyer, and the United States Attorney
19 Stephanie Lake, on May 24, 2018. Correct?

20 A. Yes.

21 Q. If we can go down to paragraph two. Before we go through
22 this, you were told, and you understood that anything you said
23 to the government during this, even this first meeting, could
24 never be used against you if the government decided to charge
25 you with crimes, correct?

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Pietruszewski - Cross

1 A. Yes.

2 Q. And looking at that agreement, the paragraph 2, it
3 indicates that any prosecution brought against client by this
4 office, except as provided below, the government will not offer
5 in evidence on its case in chief, or in connection with any
6 sentencing proceeding for the purpose of determining an
7 appropriate sentence, any statements made by the client at the
8 meeting except in a prosecution for false statements,
9 obstruction of justice or perjury with respect to any acts
10 committed or statements made during or after the meeting or
11 testimony given after the meeting, or if at any time following
12 the meeting, client becomes a fugitive from justice.

13 Correct?

14 A. Yes.

15 Q. So, with this agreement in place, you then have a number of
16 additional meetings with the prosecutors before you enter into
17 your plea deal that you testified to on direct. Correct?

18 A. Yes.

19 Q. If we can just go -- I'm sorry. I was going to go to the
20 second page of the proffer agreement. Page 2.

21 It indicates on page 2 dates of continuation on the
22 bottom of May 25, 2018, January 29, 2019, and March 6, 2019.

23 Correct?

24 A. Yes, it does.

25 Q. Those meetings took place where?

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Pietruszewski - Cross

1 A. At the government offices.

2 Q. And the same terms of your meetings at this early stage
3 still applied that nothing you said in effect could be used
4 against you if the government decided to charge you, correct?

5 A. Yes.

6 Q. So the last entry there is March 6, 2019. Subsequent to
7 that, we can take that off the board -- thank you.

8 Subsequent to that, that's when your lawyer continued
9 to have discussions with the prosecutors to work out a plea
10 agreement, correct?

11 A. Yes.

12 Q. And that is Defendant's Exhibit A9. Can we have that on
13 the board.

14 MR. GOTTLIEB: I believe this was even marked as a
15 government exhibit.

16 THE COURT: I don't want to confuse things. At this
17 trial, it doesn't have a government exhibit number?

18 MR. GOTTLIEB: No, this was the defendant's premarked
19 exhibit number, your Honor.

20 THE COURT: All right.

21 MS. ROTHMAN: It is in evidence already.

22 THE COURT: I thought it was in evidence as a
23 government exhibit. It's not marked as a government exhibit?

24 MS. ROTHMAN: It is, your Honor. It is in evidence.

25 THE COURT: What number is it?

M1O3DOU5

Pietruszewski - Cross

1 MS. ROTHMAN: 3529-12.

2 THE COURT: Okay.

3 MR. GOTTLIEB: Can we -- can we just use this one,
4 this is in evidence as the government exhibit as just indicated
5 on the record, your Honor.

6 THE COURT: That's fine. I just wanted to make the
7 record clear.

8 MR. GOTTLIEB: Thank you.

9 Q. Is this is the plea agreement, and you referred to the
10 second paragraph regarding Count One, just very briefly on
11 direct examination, so, just want to take a look at that. Can
12 we have that highlighted.

13 Count One. It reads: Count One of the information
14 charges the defendant with a violation of Title 21, United
15 States Code, Sections 846, 841(b)(1)(C), and 841(b)(1)(A), in
16 connection with his participation in a narcotics distribution
17 conspiracy from in or about January 2012 until in or about
18 March 2017.

19 Continuing: This charge carries a maximum sentence of
20 life imprisonment; a mandatory minimum sentence of 10 years'
21 imprisonment; a maximum term of supervised release of life; a
22 mandatory minimum term of supervised release of five years; a
23 maximum fine, pursuant to Title 18, United States Code, Section
24 3571 of the great of \$10 million, twice the gross pecuniary
25 gain derived from the offense, or twice the gross pecuniary

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Pietruszewski - Cross

1 loss to a person other than the defendant as a result of the
2 offense; and a mandatory \$100 special assessment.

3 Now, Mr. Pietruszewski, in entering into this
4 agreement by then, you understood that any proposed deal with
5 the government was going to include the way out of a mandatory
6 minimum of 10 years in prison, correct?

7 A. Yes.

8 Q. If we can go to Count Two on the same page. And this Count
9 Two covers the count in connection with your participation in a
10 conspiracy to defraud the United States from in or about
11 January 2012 until in or about March 2017.

12 This charge carries a maximum sentence of five years'
13 imprisonment, and then it continues with supervised release.
14 But the term of imprisonment is you were facing a maximum
15 sentence of five years in prison, correct?

16 A. Yes.

17 Q. And Count Three on the bottom of this document, Count Three
18 of the information charges the defendant with a violation of
19 Title 21, United States Code, in connection with your failure
20 to file suspicious order reports with the DEA. Correct?

21 A. Yes.

22 Q. Now, is it fair to say you already told the jury that the
23 reason you didn't file the suspicious order reports, the only
24 reason, was because you thought that's what Mr. Doud wanted,
25 correct?

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Pietruszewski - Cross

1 A. Yes.

2 Q. You didn't, you didn't fail to file suspicious order
3 reports with the intention of having illegal narcotics or
4 narcotics distributed for non-medical reasons, correct? That
5 isn't why you didn't file suspicious orders, correct?

6 A. Correct.

7 Q. So now, you said on direct, knowing that you could spend
8 the rest of your life in prison, you learned that the way out
9 is to get -- it's called a 5K letter, correct?

10 A. Yes.

11 Q. If we can go to page three of this document. And if we can
12 look at the third -- if we can highlight the third paragraph.

13 So in the same plea agreement, it reads: It is
14 understood that the sentence to be imposed upon the defendant
15 is within the sole discretion of the Court. Right?

16 A. Yes.

17 Q. And no promises or representations were made to you as to
18 what the sentence would be, correct?

19 A. That's correct.

20 Q. But they included in this agreement -- if I can just find
21 it -- let's put starting with in addition, if this office
22 determines. Sort of like in the middle of the document.
23 That's right. If we can highlight that and go down.

24 Embodied in this agreement, in addition, it reads: In
25 addition, if this office -- that means the U.S. attorney's

M1O3DOU5

Pietruszewski - Cross

1 office, correct?

2 A. Yes.

3 Q. The government, correct?

4 A. Yes.

5 Q. Determines that the defendant has provided substantial
6 assistance in an investigation or prosecution, and if he has
7 fully complied with the understandings specified in this
8 agreement, this office will file a motion, pursuant to Section
9 5K1.1 of the sentencing guidelines and 18 U.S.C. 3553(e),
10 requesting that the Court to sentence the defendant in light of
11 factors set forth in Section 5K1.1(a)(1)-(5).

12 Now, ending the reading of this document at this
13 point.

14 Is it fair to say that you understood, after pleading
15 guilty, after meeting with the government and prepping for your
16 testimony in front of the jury, the first thing you understood
17 that it was that 5K letter that provided the way toward a
18 sentence less than the mandatory minimum of 10 years, correct?

19 A. Yes.

20 Q. You understood that the only way to avoid the mandatory
21 minimum is if the government, following your testimony, agreed
22 and decided to write a 5K letter to the sentencing judge,
23 correct?

24 A. Yes.

25 Q. And you understood that whether or not the government

M1O3DOU5

Pietruszewski - Cross

1 writes a 5K letter is entirely their call to make, correct?

2 A. Yes.

3 Q. You understand that to get that precious 5K letter, the
4 government has to agree that you really helped them, correct?

5 MS. ROTHMAN: Objection, your Honor.

6 THE COURT: Overruled. He can answer as to his
7 understanding.

8 A. Yes.

9 Q. What you were asked on direct, part of the deal is that you
10 have to tell the truth.

11 Based on what you know, who is the final judge as to
12 whether or not the government believes that you've told the
13 truth? Who makes that decision?

14 MS. ROTHMAN: Objection.

15 THE COURT: Sustained as to the form of the question.

16 Q. Who makes the decision as to whether or not you told the
17 truth?

18 A. The judge, the jury.

19 Q. In fact, you were asked on direct, and I ask you now.

20 Isn't it true that it is entirely the decision of the
21 government, the prosecutors, whether or not you have told the
22 truth? Correct?

23 A. Yes.

24 Q. It's not the judge, correct?

25 A. Correct.

M1O3DOU5

Pietruszewski - Cross

1 Q. If the government decides that you haven't provided
2 substantial assistance, you understand, you're not going to get
3 that precious 5K letter, correct?

4 A. That's correct.

5 MR. GOTTLIEB: Would this be an appropriate time to
6 take a short break?

7 THE COURT: Yes.

8 Ladies and gentlemen, we'll take a 15 minute break.
9 Don't discuss the case, keep an open mind. We'll bring you
10 back in and continue in 15 minutes.

11 (Jury excused)

12 THE COURT: You can step down.

13 THE WITNESS: Thank you.

14 THE COURT: We'll take a short break.

15 MR. GOTTLIEB: Thank you, Judge.

16 (Recess)

17 THE COURT: The witness can retake the stand.

18 Mr. Gottlieb, how much further are you going to go with this?

19 MR. GOTTLIEB: It will go into tomorrow morning.

20 THE COURT: Okay.

21 MR. GOTTLIEB: Your Honor, at 4:30, would that be an
22 appropriate time?

23 THE COURT: 4:40 or so.

24 MR. GOTTLIEB: Okay.

25 THE COURT: I want to use as much time as we can.

M1O3DOU5

Pietruszewski - Cross

1 MR. GOTTLIEB: Thank you.

2 THE COURT: After this witness, who can we do
3 tomorrow?

4 MR. ROOS: Well, your Honor, I think the plan is the
5 next witness will be the expert. The expert teaches a class,
6 we were trying -- worse comes to worst we were trying to
7 navigate things, there is a slight possibility we would put
8 Paulsen before him so he doesn't miss his class. It will
9 either be expert or Paulsen then expert.

10 THE COURT: Do you think that's all we'll do tomorrow,
11 two more witnesses or one more?

12 MR. ROOS: It depends on the length of cross, although
13 we still have I think an hour today. So hopefully cross will
14 be close to done by tomorrow morning and then we could spend,
15 get through maybe the expert tomorrow.

16 THE COURT: And that's it, you think we're only going
17 to do one more additional witness?

18 MR. ROOS: I don't know the length of the cross. I'm
19 positive if we wrap up midmorning with this witness that we
20 could finish, certainly the direct, no problem with the expert.
21 And I imagine have time for cross also.

22 THE COURT: Okay. How many more do you have after
23 that?

24 MR. ROOS: So, there's four people, besides the expert
25 and this witness, and we are still sort of figuring out what's

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Pietruszewski - Cross

1 going to happen there. But we'll figure that out so we can
2 give a better report to your Honor tomorrow.

3 THE COURT: I'd like to see us get through two
4 witnesses tomorrow additional if we could. But you know better
5 than I what the length of your witnesses might be.

6 MR. ROOS: If we can finish this witness, I would say
7 sort of at the start of the day, then I think there is a real
8 shot we would get two in, the two I mentioned in tomorrow.

9 THE COURT: Okay.

10 MR. ROOS: On and off, and that would put us in a
11 great position.

12 THE COURT: Do you think you might rest as early as
13 Wednesday or Thursday?

14 MR. ROOS: So, let's say hypothetically we got through
15 both those witnesses tomorrow, everyone else that's left I
16 think could be accomplished in a single day. They're very
17 short witnesses. Some of them are, you know, as short as say
18 Castro, so, it's something I think if we got through those
19 tomorrow, then Wednesday we could be done potentially.

20 THE COURT: All right. Let's see where we are
21 tomorrow. If we do finish on the government's witnesses on
22 Wednesday, I'd like to proceed with defense witnesses on
23 Thursday. And I'm trying to figure out whether or not we
24 should do Friday or skip Friday and do Monday. But it will
25 depend on where we are and what else we need to get

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Pietruszewski - Cross

1 accomplished. Because I'd like to get, if we could have
2 summations and charge Tuesday or Wednesday of next week, I
3 think that would be best. Because again, remember, we have the
4 Friday that we'll either be excusing that one juror or we'll be
5 taking next Friday off.

6 Jury entering.

7 (Continued on next page)

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M1O3DOU5

Pietruszewski - Cross

1 (Jury present)

2 MR. GOTTLIEB: May I, your Honor?

3 THE COURT: Yes, Mr. Gottlieb.

4 MR. GOTTLIEB: Thank you.

5 BY MR. GOTTLIEB:

6 Q. Sir, everything we've been talking about up until now, both
7 on direct and cross, as far as what was done at RDC, can we
8 agree that you, you wanted to be a good employee, correct?

9 A. Yes.

10 Q. You respected the position that Mr. Doud had as the CEO,
11 correct?

12 A. Yes.

13 Q. You knew that he was, in the vernacular, he was the boss,
14 he was the big cheese, correct?

15 A. Yes.

16 Q. And consistent with the culture at RDC, while you were
17 there, you understood and worked to build up the business,
18 correct?

19 A. RDC built the business, yes.

20 Q. And there was a real interest in building up the business,
21 correct?

22 A. That's true.

23 Q. And building up the business meant bringing in new
24 customers and keeping them, correct?

25 A. Yes.

M103DOU5

Pietruszewski - Cross

1 Q. Is it fair to say that you understood that consistent with
2 that culture, that Larry Doud didn't want to lose customers,
3 correct?

4 A. That's true.

5 Q. And you understood that, consistent with the culture, you
6 felt there were many things that you were asked about that you
7 didn't do, because Mr. Doud -- you thought -- didn't want you
8 to do them, correct?

9 MS. ROTHMAN: Objection to form.

10 THE COURT: Overruled. You can answer if you
11 understand the question.

12 A. Can you repeat that?

13 Q. Sure. You testified on direct about not filing the
14 suspicious orders. You recall all of that, correct?

15 A. Yes.

16 Q. And you understood that Mr. Doud, as you told the jury,
17 didn't want suspicious order reports filed, correct?

18 A. Correct.

19 Q. He didn't want to lose the customers, correct?

20 A. Correct.

21 Q. He wanted to work with the customers, correct?

22 A. Yes.

23 Q. And the reason why, you explained to the jury, the reason
24 why you didn't file the suspicious orders was for that reason,
25 that Mr. Doud, for the reasons you've expressed, he didn't want

M1O3DOU5

Pietruszewski - Cross

1 you to file them, correct?

2 A. Yes.

3 Q. Had nothing to do with intending to divert narcotics for
4 illegal purposes, correct?

5 A. I mean, no.

6 Q. And the not filing of the suspicious orders, you didn't
7 have the reason, you didn't have the intention in not filing it
8 because you wanted to defraud the United States of America,
9 right?

10 A. I did not want to, no.

11 Q. And again, Larry Doud's -- your understanding, that you
12 were asked about on direct, Larry, your understanding of
13 Mr. Doud's thinking in not wanting to file the suspicious
14 orders, also was because he wanted to keep the customers, not
15 to defraud the United States of America, correct?

16 A. Yes.

17 Q. When you met with the prosecutors, did you tell them
18 exactly what you told the jury now about your understanding of
19 Mr. Doud's intentions with regard to the suspicious orders?
20 Did you tell them that?

21 MS. ROTHMAN: Objection.

22 THE COURT: Overruled. You can answer.

23 A. Yes.

24 Q. So during your meetings with the government, you told
25 them -- correct me if I'm wrong -- you told them that you

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Pietruszewski - Cross

1 understood that Mr. Doud didn't intend to defraud the
2 government, he just wanted to keep the business, correct?

3 A. We were defrauding the government, but we wanted to keep
4 the business.

5 Q. But that was the purpose, correct?

6 MS. ROTHMAN: Objection, vague.

7 THE COURT: Overruled. You can answer.

8 A. Yes.

9 Q. Now, you were asked about red flags?

10 A. Yes.

11 Q. Was it your understanding while you were working there that
12 as soon as you gained notice of a red flag, with regard to an
13 order, that you were required to immediately contact the DEA?

14 A. We were supposed to investigate it.

15 Q. So is it fair to say that even back then, you understood
16 the CFR that you mentioned on direct --

17 A. I understood it --

18 Q. I didn't complete the question.

19 A. I'm sorry.

20 Q. You don't have to apologize.

21 You understood the CFR required you to investigate a
22 red flag, correct?

23 A. I learned that from Carlos Aquino instructing us that.

24 MR. GOTTLIEB: If we can have the CFR, I believe it is
25 Defense 9 on the display. It is in evidence.

M1O3DOU5

Pietruszewski - Cross

1 Q. When you made mention of the CFR, 21 CFR 1301.71 in
2 paragraph (b) if we can highlight that.

3 MS. ROTHMAN: Objection. Misstates the testimony.

4 MR. GOTTLIEB: I didn't hear.

5 MS. ROTHMAN: This didn't refer to this section of the
6 CFR.

7 THE COURT: She said you said he referred to this
8 section and she says he did not refer.

9 BY MR. GOTTLIEB:

10 Q. Are you aware of 21 CFR 1301.71?

11 A. Now, this, yes, I know now.

12 Q. When did you become aware of this section?

13 A. It was Carlos pointed that out to us in like 2013.

14 Q. This section that was highlighted was compliance with
15 regard to security.

16 MS. ROTHMAN: Objection, relevance.

17 THE COURT: What's your question, Mr. Gottlieb?

18 MR. GOTTLIEB: Thank you.

19 Q. With regard to this section, your understanding is this
20 sets forth the requirements with regard to security
21 requirements at RDC and other registrants, correct?

22 MS. ROTHMAN: Objection. Relevance.

23 THE COURT: Overruled. You can answer.

24 A. I -- I never actually seen this per se about the physical
25 security of controls and operating procedures.

M1O3DOU5

Pietruszewski - Cross

1 Q. So as of right now, this is the first time you've seen this
2 particular section, just yes or no, and then we'll move on.

3 A. I didn't remember -- I mean, we didn't work with bulk
4 chemicals or anything of that.

5 Q. Can we go to Defense L10. And this section, this is CFR
6 1301.74. You were aware of this section while you were working
7 there, correct?

8 A. Yes, this corresponds to the letter that we received in
9 2008.

10 Q. If we can look at (b) of this section. This is L10.

11 It reads: The registrant shall design and operate a
12 system to disclose to the registrant suspicious orders of
13 controlled substances. The registrant shall inform the field
14 division office of the administration in his area of suspicious
15 orders when discovered by the registrant. Suspicious orders
16 include orders of unusual size, orders deviating substantially
17 from a normal pattern, and orders of unusual frequency.

18 Do you see that section?

19 A. Yes.

20 Q. Is it fair to say that, based on what you understood to be
21 the requirements, that the law does not define any further what
22 an unusual size is with regard to suspicious orders, to your
23 knowledge?

24 MS. ROTHMAN: Objection.

25 THE COURT: Overruled, you can answer.

M103DOU5

Pietruszewski - Cross

1 A. No. This, we didn't base it off of this. We, again, used
2 our SOM that we developed.

3 Q. But I'm asking you specifically -- I understand. So any
4 decisions you made, any analysis was just based on an internal
5 RDC guideline; is that fair to say?

6 A. I mean, I don't think we used this as a guideline.

7 Q. Are you aware of any regulation, any law that further
8 defined orders of unusual size, if you know?

9 MS. ROTHMAN: Objection, your Honor.

10 THE COURT: Overruled. You can answer.

11 A. I mean, we knew if somebody ordered large amounts, you
12 know, if it was maybe three times over the amount or something
13 of that nature.

14 Q. Okay. Are you aware of any law, regulation that further
15 defined orders deviating substantially from a normal pattern,
16 beyond what's in this regulation?

17 MS. ROTHMAN: Objection, your Honor.

18 THE COURT: Overruled. You can answer.

19 A. I'm not sure.

20 Q. Okay. And finally, for this section describing suspicious
21 orders, the term that's used there "and orders of unusual
22 frequency."

23 Are you aware of any regulation, any law that further
24 defines even what that means?

25 MS. ROTHMAN: Objection.

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Pietruszewski - Cross

1 || THE COURT: Overruled. You can redirect.

2 A. Is that in the second paragraph as well in (b)?

3 Q. Yes. Right at the end, I'm sorry. Thank you. That last
4 sentence. Suspicious orders include orders of unusual size,
5 orders deviating substantially from a normal pattern, and
6 orders of unusual frequency.

7 My question is, are you aware of any other regulation,
8 any other law that further defines that term "orders of unusual
9 frequency"?

10 A. I 'm not sure.

11 Q. You understood that due diligence under the law was a plan
12 that each registrant, each company, had to develop on its own,
13 correct?

14 A. Yes.

15 Q. You understood that, when developing the due diligence
16 plan, the DEA would not provide any further guidance about what
17 a good diligence plan would be, correct?

18 A. I mean, they didn't, no.

19 Q. The DEA would not tell you, you understood at the time,
20 they would not evaluate and decide if an order that you
21 received even warranted filing a suspicious order, correct?

22 || A. Correct .

23 (Continued on next page)

M10VDOU6

Pietruszewski - Cross

1 BY MR. GOTTLIEB:

2 Q. Did you know, in fact, that the DEA didn't even want
3 registrants to notify it whenever there was a red flag?

4 A. I did not know that.

5 Q. Now, am I correct that you said that you worked on
6 developing the compliance program?

7 A. I mean, yes, I wrote down myself, Ed Kirker, and IT staff.

8 Q. And you spent quite a bit of time putting together the
9 compliance program that you worked on; correct?

10 A. Yes.

11 MR. GOTTLIEB: Now, if we can look at A10 please.
12 This is just for the witness, your Honor, and attorneys.

13 Q. Is it fair to say that there was an interview of you in
14 August of 2014 by the DEA?

15 A. There was, yes.

16 Q. Now, with regard to that --

17 MR. GOTTLIEB: Actually, we can take this off right
18 now.

19 Q. Is it fair to say that whenever you met with the DEA,
20 whenever you spoke with the DEA, beginning in 2013, you
21 cooperated with them; correct?

22 A. Yes, I did.

23 Q. You answered your questions to the best of your ability;
24 correct?

25 A. Yes.

M10VDOU6

Pietruszewski - Cross

1 Q. And as head of compliance, would you agree that you were in
2 routine contact with the DEA in Buffalo?

3 A. Not in a routine. I mean, I spoke to them or I emailed
4 them, but I -- I don't know what that -- what constant -- what
5 that means.

6 Q. Would it refresh your recollection looking at a DEA report
7 regarding your meeting with the DEA in August of 2014?

8 MS. ROTHMAN: Objection. The witness didn't say he --

9 THE COURT: Sustained as to that question.

10 If you think he doesn't remember something, you want
11 to refresh his recollection, go right ahead.

12 MR. GOTTLIEB: Thank you.

13 If you could just put up A10.

14 Q. And if I could just refer you to page 2, right to the top.

15 A. Okay.

16 Q. And don't read out loud, just read it to yourself please.

17 Do you recall telling the DEA in August of 2014 that
18 you are in routine contact with the DEA Buffalo office?

19 A. I don't remember saying it, but I don't know if -- again,
20 routine, is it once a year, once a month?

21 Q. Nobody told you -- Larry Doud never told you not to be in
22 routine contract or contact with the DEA office; correct?

23 MS. ROTHMAN: Objection.

24 THE COURT: No. Overruled. You can answer.

25 THE WITNESS: Oh, I can?

M10VDOU6

Pietruszewski - Cross

1 A. No, he didn't.

2 Q. And when issues came up about ARCOS, you cooperated with
3 the DEA in answering their questions; correct?

4 A. Yes.

5 Q. You met with DEA investigators many times; correct?

6 A. I met with them, yes.

7 Q. Actually, you know, as part of your duties, do you recall
8 seeking an in-depth briefing with the DEA to clarify the
9 company's suspicious orders responsibilities? Do you recall
10 that?

11 A. We never -- never went to the briefing.

12 Q. Yes. Do you recall that you tried in 2013 to meet with the
13 DEA on behalf of RDC to clarify the company's suspicious order
14 requirements? You tried, right?

15 A. Yes.

16 Q. And do you recall that when you tried to do that in June of
17 2013, the DEA scheduled a date to meet; correct?

18 A. Okay. I mean, I don't remember the date, but okay.

19 Q. But you remember a date was scheduled; correct?

20 A. Yes.

21 Q. And the meeting was then canceled; correct?

22 A. It was, yes.

23 Q. And it was canceled by Lenny Levin, the coordinator for the
24 DEA Office of Diversion Control; correct?

25 A. Yes.

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Pietruszewski - Cross

1 Q. And you then, on behalf of RDC, tried to set up another
2 meeting to clarify suspicious order responsibilities; correct?

3 A. Someone else from the office contacted me, someone that
4 took over for Lenny Levin, I don't remember their name.

5 Q. And you then tried to schedule certain dates to meet with
6 the DEA to obtain this clarification; correct?

7 A. Yes.

8 Q. The DEA, do you recall, got back to you and said the dates
9 you offered, they would not work. Do you recall that?

10 A. I don't remember if that's what it was, but we didn't -- we
11 didn't end up meeting.

12 Q. And you didn't end up meeting because the DEA never offered
13 another date after you had reached out to the DEA for guidance;
14 correct?

15 A. I believe the person that was doing it got injured or
16 something, and that's why they had to cancel.

17 Q. Now, let's discuss the actual compliance program and what
18 RDC did.

19 You indicated, I believe, at the beginning of the
20 cross-examination that you're not suggesting to the jury that
21 there was no compliance program; correct?

22 A. Correct.

23 MR. GOTTLIEB: If we could have A24 displayed for the
24 witness and attorneys and the Court.

25 Q. Do you see that up there?

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Pietruszewski - Cross

1 A. Yes.

2 Q. And these are the thread of emails between you and Larry
3 Doud; correct?

4 A. Yes.

5 MR. GOTTLIEB: Your Honor, I would ask that this be
6 received in evidence, please.

7 MS. ROTHMAN: It's already in evidence.

8 THE COURT: Okay.

9 MR. GOTTLIEB: As A24?

10 MS. ROTHMAN: No, it's a government exhibit.

11 MR. GOTTLIEB: Okay. What government exhibit is it,
12 please?

13 MS. ROTHMAN: It's GX-17.

14 MR. GOTTLIEB: 17? Government Exhibit 17.

15 And this is -- if it can be displayed for the jury
16 once again, your Honor.

17 THE COURT: Yes.

18 Q. And this on the bottom has an email from you, May 3, 2013,
19 to Larry Doud, which you say: If I were to go and they tell me
20 that we must do a due diligence on 100 stores or we have to
21 stop selling to even one store, I would always consult with you
22 first. Correct?

23 A. Yes, that's correct.

24 Q. And again, what you're doing here is being a responsible
25 employee speaking with your CEO; correct?

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Pietruszewski - Cross

1 A. Yes.

2 Q. And Larry Doud's response right above is: You are a good
3 man, Bill.

4 You didn't take offense to that, did you?

5 A. I -- no. I mean, I didn't take offense to it. I was --
6 doing what I was told to do.7 Q. And if we go above that, please, on top of A24, Government
8 Exhibit 17, you simply say: Thank you. Correct?

9 A. Yes.

10 MR. GOTTLIEB: A25, please.

11 Q. Do you recognize A25?

12 MR. GOTTLIEB: These are an email thread, your Honor,
13 between Mr. Pietruszewski and Larry Doud in February of 2014.

14 I ask that be received in evidence.

15 MS. ROTHMAN: No objection.

16 THE COURT: It will be admitted into evidence.

17 (Defendant's Exhibit A25 received in evidence)

18 MR. GOTTLIEB: And if we can display that to the jury,
19 please.20 Q. All right. Sir, the first email on this dated February
21 18th, 2014, at 9:14 p.m., on the bottom, it's an email from you
22 to Selig, please. Who is Selig?

23 A. I'm not sure.

24 Q. Was he an employee? Was he a business -- a customer?

25 A. I -- I don't remember, to be honest with you.

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Pietruszewski - Cross

1 Q. Now, is it fair to say, before we look at it, that during
2 this period of time, you had gained knowledge about compliance
3 issues; correct?

4 A. That was during -- yes.

5 Q. And if we look at this email then, it reads: Selig, hello.

6 MR. GOTTLIEB: If we can highlight that first
7 paragraph. Thank you.

8 Q. Hello. I apologize for just getting to this email. I am
9 just coming back tomorrow from a short vacation. The DEA has
10 not placed new protocols to wholesalers, but are enforcing the
11 CFR guidelines more diligently. I the CFR handbook stated back
12 in the late '70s that it is the wholesaler's responsible to
13 monitor report suspicious sales of controlled substances,
14 though the DEA has not started enforcing this with all
15 wholesalers until 2011 letter that they sent to us that we need
16 to know our customer's customer. This, as I mention, was
17 always the wholesaler responsibility.

18 But then you continue to provide this information.

19 MR. GOTTLIEB: If we could highlight that and pop it
20 up there. Bigger? Okay.

21 Q. Back in November, I went to a seminar that the DEA held in
22 Virginia for wholesaler/distributors informing us that we need
23 to do more than just report ARCOS information. We need to find
24 out why a pharmacy orders more controlled substance out of
25 their normal realm or if a pharmacy orders certain combinations

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Pietruszewski - Cross

1 of controlled substances.

2 For example, a pharmacy may normally order 3,000 units
3 of oxycodone 30 milligrams from a wholesaler a month, but this
4 pharmacy were to order 5,000 or 6,000 the following month, we
5 must know why an increase. Simple answer may be that the
6 pharmacy is now a primary with RDC now verse another
7 wholesaler, but we need documentation from the pharmacy to
8 support this increase.

9 We would require utilization of all strengths of
10 oxycodone from this pharmacy for the last three months so we
11 may analyze the information. We would look at the doctors that
12 are writing for these scripts to see if their DEA is valid on
13 the DEA website, then determine the prescribers' medical
14 education, field of medicine, and board certification. This
15 can be done in New York through the website.

16 And then you provide the website that can be checked.
17 Correct?

18 A. Yes.

19 MR. GOTTLIEB: If we go up to the response.
20 Q. Larry Doud response to you and to this email: Bill, you
21 make us look awfully good. Where else could they go and get
22 this type of information. Thanks. Maybe Anda.

23 What's Anda, A-N-D-A?
24 A. It's a -- it was a wholesaler distributor -- distributor
25 just for pharmaceuticals.

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Pietruszewski - Cross

1 Q. Now, is it fair to say that in this email, Larry Doud is
2 saying good job; a pat on the back for providing this
3 individual with the information that's in that email. Correct?

4 MS. ROTHMAN: Objection.

5 THE COURT: Overruled. You can answer.

6 A. Yes.

7 Q. And Larry Doud here and elsewhere, he didn't attack you or
8 yell at you or get angry with you any time you provided
9 information about due diligence; correct?

10 A. No, he -- he did.

11 Q. There were times that he would give you a pat on the back,
12 right?

13 A. And there was times he didn't give me a pat on the back.

14 Q. And at the times when you say he wouldn't give you a pat on
15 the back, did you ask Larry Doud what information, if any,
16 caused him to not give you a pat on the back? Did you ask him
17 that question?

18 A. He would either tell me or he would tell me that we would
19 discuss it at a later time, which we -- we would at times.

20 Q. And looking at the email right on top, you write to Larry
21 Doud: Larry, if you want, Carlos would call Selig and give him
22 more information. I mentioned it to Carlos and he would speak
23 with him free of charge. Let me know. Thank you.

24 Do you recall that?

25 A. I mean, I would have said that. I mean, if Carlos

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Pietruszewski - Cross

1 mentioned it, yes.

2 Q. Larry Doud didn't respond and tell you, No, no, don't have
3 Carlos have any contact with this customer; correct?

4 A. If it is a customer. Again, I'm not sure who that person
5 is, but --

6 MR. GOTTLIEB: If we could have A11, please, shown to
7 the witness, please.

8 Q. Now, this is a thread email involving you and various other
9 members of RDC; correct?

10 A. Yes.

11 MR. GOTTLIEB: And if we can go to the bottom of it.

12 Q. And this is from Kevin Taraszewski. And who is Kevin
13 Taraszewski, please?

14 A. He's a salesman with RDC or was a salesman with RDC.

15 MR. GOTTLIEB: Your Honor, I ask that A11 be received
16 in evidence.

17 MS. ROTHMAN: Objection to relevance, your Honor.

18 MR. GOTTLIEB: This all goes to the follow-up and
19 compliance issues that are -- are what this trial is all about.

20 THE COURT: Why don't you lay a further foundation as
21 to its relevance.

22 MR. GOTTLIEB: The subject matter in the first thread
23 from Kevin Taraszewski to you, Larry Doud, Jessica Pompeo, Joe
24 Brennan, Julius Morton, Lanny Doud. The subject is compliance
25 auditor visit and documentation.

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Pietruszewski - Cross

1 Your Honor, I ask that this be received in evidence.

2 THE COURT: I'll accept it.

3 MR. GOTTLIEB: Thank you.

4 (Defendant's Exhibit A11 received in evidence)

5 MR. GOTTLIEB: If we can display that to the jury.

6 Let's go to page 2, which is the beginning of the thread.

7 Q. The beginning of this thread is Kevin Taraszewski,
8 September 2, 2014. Subject: Compliance auditor visit and
9 documentation. And it reads: Steve, as we spoke of last
10 Wednesday -- and can I ask you at this point -- it's to
11 steven.simon@verizon.net. Do you know who he is?

12 A. No, I don't.

13 Q. Steve, as we spoke of last Wednesday --

14 MR. GOTTLIEB: Reading from the document, your Honor.

15 Q. -- our compliance auditor will be coming into Pittsburgh on
16 Friday, September 5 to speak with you regarding the situation
17 with Suboxone and Subutex. When I have a more precise time of
18 arrival, I will let you know.

19 There are a few things we need for documentation by
20 Wednesday if you have them:

21 One, documentation that you are a West Virginia
22 out-of-state provider for medicaid.

23 Two, West Virginia state pharmacy license, if you have
24 one.

25 Three, any written correspondence between the DEA and

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Pietruszewski - Cross

1 Stanton Negley giving permission to fill Suboxone/Subutex to
2 out-of-state patients. You can either scan and email to me or
3 fax documentation to RDC compliance at the phone number.

4 It's signed: Thanks for your cooperation. Kevin.

5 MR. GOTTLIEB: Can we go to the thread right above
6 that.

7 Q. Right above that is from Kevin Taraszewski again to you, to
8 Larry Doud, Julius Morton, Lanny Doud, Jessica Pompeo, Joe
9 Brennan, saying: Sent this to Steve this morning. Received a
10 call from him about three or so today, and he said that we're
11 both trying to protect ourselves from lawsuits, but what we are
12 doing is so far beyond reason that it's illegal.

13 If I could stop right here.

14 Do you recall that learning and seeing these emails,
15 that somebody was accusing RDC of doing more with regard to
16 compliance than what was necessary?

17 MS. ROTHMAN: Objection. Hearsay. Vague.

18 Irrelevant.

19 THE COURT: No, overruled.

20 You can answer the question.

21 A. Can you just repeat that?

22 Q. Do you recall receiving this email and learning that there
23 was a customer out there, potential customer, who was attacking
24 RDC for demanding too much information; and that it was beyond
25 reason that it was illegal? Do you recall learning that?

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Pietruszewski - Cross

1 A. I don't remember this particular email, but I remember the
2 account.

3 Q. Then continuing, perhaps this will refresh as we go along:
4 It continues: This plan of action is to go to the United
5 States District Attorney's Office and get guidance from them on
6 what they can and can't do, and that's what he's going to go
7 by. The U.S. District Attorney for the Western Division of
8 Pennsylvania is David Hickton. Steve stated they had dealings
9 with him before in other matters. Steve's concern is that if
10 he does not fill these scripts for cash, he could possibly be
11 sued for discrimination because he could be construed as
12 stereotyping these people who have no insurance and/or must pay
13 by cash. That's why he thinks what we are doing is illegal.

14 MR. GOTTLIEB: Can we go to the thread -- the email
15 right above that.

16 Q. And this is a response from Lanny Doud. And Lanny Doud is
17 Larry Doud's son; correct?

18 A. Yes.

19 Q. Saying to the same group: Did he speak to you nicely? It
20 sounds like he semi understands our position. And if the DA
21 would be kind enough to put his approval and we have the DEA's
22 approval both on letterhead, I would think we may be good to
23 go? Signed, Lanny Doud.

24 Does this begin to refresh your recollection of this
25 particular thread and emails?

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Pietruszewski - Cross

1 A. I remember the accounts and what we went through with it.
2 I don't remember the specific email.

3 MR. GOTTLIEB: Thank you.

4 We can take that off the board.

5 If we can just put up Defense Exhibit A12. This isn't
6 in evidence. And this is for the witness, your Honor, and
7 counsel, and the Court. A12.

8 Q. Do you recognize what this is?

9 A. Yes.

10 Q. What is it?

11 A. It's a account survey that Al and Joe and others developed
12 from other wholesalers.

13 Q. And when was this developed? If you know when.

14 A. It was around 2007, I believe.

15 Q. And while you were the head of compliance, was this
16 particular form account survey in existence?

17 A. Yes.

18 Q. And was it used?

19 A. It was used, yes.

20 MR. GOTTLIEB: Your Honor, I ask that it be received
21 in evidence please.

22 MS. ROTHMAN: No objection.

23 THE COURT: It will be admitted into evidence.

24 (Defendant's Exhibit A12 received in evidence)

25 MR. GOTTLIEB: And, your Honor, if we could just

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1 display that to the jury.

2 THE COURT: Yes.

3 MR. GOTTLIEB: Thank you.

4 Q. And this is the account survey that was sent to new
5 customers; correct?

6 A. It was sent to the customers, yes.

7 MR. GOTTLIEB: Your Honor, thank you very much.

8 Would this be an appropriate time then to break?
9 Because this is a break.

10 THE COURT: All right. Ladies and gentlemen, we'll
11 take the afternoon adjournment.

12 So don't discuss the case. Keep an open mind.

13 I'm going to ask you to be in the jury room before
14 9:45; although I do have another matter quickly to handle
15 before I bring you out. So if I'm delayed a few minutes,
16 that's why.

17 So don't discuss the case. Keep an open mind. I'll
18 see if we can start as early as we possibly can tomorrow
19 morning. I'll see you then.

20 (Jury not present)

21 THE COURT: You can step down, sir.

22 (Witness not present)

23 THE COURT: Okay. All right.

24 I will keep checking my box to see what I get this
25 evening, and we'll -- I'm going to have -- I have a sentencing

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1 at 9:15, and a class action settlement final approval somewhere
2 around 10 o'clock. So we may start a little bit after that.
3 But, otherwise, I'll look at whatever submissions I get
4 tonight.

5 MS. ROTHMAN: Your Honor, can I raise two things?

6 I'm not going to tell Mr. Gottlieb how to do his job,
7 but I would just point the Court to the length of
8 cross-examination. We were looking at a proffer agreement for
9 like ten minutes during the cross today. I don't know if there
10 was an attempt to waste time, to drag this out. We're ending a
11 letter early. I just think that we're all trying to move this
12 case along, and I would ask that Mr. Gottlieb do that as he
13 continues his cross tomorrow.

14 The second thing I would note is something that we
15 raised during the cross-examination of Ms. Carter. There again
16 is the suggestion that the DEA did something wrong here and
17 that's improper. The DEA is not on trial, Mr. Doud is on
18 trial. And the questions about the DEA not rescheduling, the
19 questions about the guidance and the CFR, I think the defense
20 is getting very close to an inappropriate line. And I hope
21 that we don't hear those arguments through the rest of the
22 cross-examination and in summation because, again, there is one
23 person on trial, and that's the defendant, your Honor.

24 MR. GOTTLIEB: Your Honor, if I may.

25 I find these comments a little strange, as an

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1 understatement.

2 With regard to point two, this is a distortion of the
3 purpose of that question. I am not blaming the DEA for
4 anything. I'm simply showing -- I'm now bearing my entire
5 strategy. I'm bearing the fact that there were instances,
6 contrary to their opening statement the government's opening
7 statement, contrary to the entire suggestions in this case,
8 that RDC went out of its way and did compliance. Not a perfect
9 job, maybe woefully insufficient, but they reached out to DEA.
10 I'm not blaming the DEA because somebody got injured and
11 couldn't have it. That is permissible evidence to support an
12 argument which is directly relevant to rebut the distortions
13 and the misleading statements even in their opening statement.

14 As far as point one, your Honor, I sat here and
15 listened, droning on, email after email. My client's life is
16 on the stand. And I believe, because I'm not going to be
17 repetitious, as long as I'm raising new issues, I'm entitled to
18 cross-examine. And I don't need guidance from the government.

19 THE COURT: All right. Well, obviously to the extent
20 that the government believes there are any questions that are
21 inadmissible, then they should make those objections and I'll
22 rule on those objections. I'm not here to tell lawyers how
23 best to try their case, as long as they stay within the bounds
24 of the rules.

25 As I always say, by the time I tell you to sit down,

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1 you'd have lost the jury long before then. I'd think about
2 this case from their perspective, not from the lawyers'
3 perspective. So if I look at the jury and they are starting to
4 nod out, then I usually get an impression that maybe they are
5 not really getting what you want them to get out of it. But
6 that's for the parties, the lawyers to decide how best to try
7 the case, as long as the questions are appropriate questions to
8 ask and they are not objectionable, all right.

9 So let's stay focused. Let's keep moving along. And
10 I am hopeful that I have not given the jury a false impression
11 of where I think we will be, and hopefully we will still be
12 ahead of that schedule that I gave them toward the end of this
13 week.

14 Yes.

15 MR. GOTTLIEB: Your Honor, what I was going to say
16 before this issue came up, I wanted for both the government and
17 your Honor to know that I'm not going to be done by -- if we
18 start at 9:45 or 10, within 45 minutes or so. There was
19 substantial information that was raised. So I just want for
20 everyone's scheduling, I felt I wanted to inform everybody. So
21 I think tomorrow morning is this witness.

22 THE COURT: As long as your questions are appropriate
23 and relevant, then we will deal with them. Otherwise, if they
24 are not, then we will shut it down. All right?

25 So I'll see you tomorrow morning at 9:45.

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1 MS. ROTHMAN: Thank you, your Honor.

2 MR. GOTTLIEB: Thank you.

3 (Adjourned to January 25, 2022 at 9:45 a.m.)

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6	Direct By Ms. Rothman	878
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8 GOVERNMENT EXHIBITS

9	Exhibit No.	Received
10	703, 281 through 290	877
11	701, 252 through 254, 260, 263	877
12	263 through 266, 267A through 2670	877
13	268A through 268D, 268J, 280	877
14	3529-12	881
15	613	891
16	617	892
17	274	900
18	108BB	982
19	108AA	988

20 DEFENDANT EXHIBITS

21	Exhibit No.	Received
22	A8	1005
23	A25	1030
24	A11	1035
25	A12	1038